HISTORICAL NOTES

ON THE

CONSTITUTIONS OF CONNECTICUT

1639-1818

PARTICULARLY

ON THE ORIGIN AND PROGRESS OF THE MOVEMENT WHICH RESULTED IN THE CONVENTION OF 1818 AND THE ADOPTION OF THE PRESENT CONSTITUTION

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The following historical sketch was written, some twelve years ago, by way of introduction to a projected edition of the Constitution of 1818, with the Journal of the Convention by which it was formed, extracts from the Debates reported in the newspapers of the time, and notes showing the origin and authorship of the several sections, the intent of the framers, and something of the secret history of particular provisions and of the motives which influenced individual members of the Convention to advocate or to oppose their incorporation with the constitution. The work was laid aside, till I should have leisure — which now it seems unlikely that I shall ever find — to revise and complete it. The fact that the Journal of the Convention has just been printed by order of the General Assembly, and the interest which is everywhere manifested in the proposition to call another convention to amend the present constitution or to frame a new one, may perhaps serve as an apology for the publication of this sketch, unfinished and imperfect as it is.

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Hartford, Conn., July 1st, 1873.

HISTORICAL NOTES

ON THE

CONSTITUTIONS OF CONNECTICUT.

1639-1818.

The constitutional history of Connecticut properly begins with the adoption, on the fourteenth of January, 1638-39, of the "Fundamental Orders," by which "the inhabitants and residents of Windsor, Hartford, and Wethersfield" became "associated and conjoined to be as one Public State or Commonwealth," for the establishment of "an orderly and decent government, according to God, to order and dispose of the affairs of the people at all seasons as occasion shall require."[1]

At the first settlement of the colony a provisional government had been instituted, under a commission from the General Court of Massachusetts (March 3, 1636), to eight of the persons who "had resolved to transplant themselves and their estates unto the River of Connecticut":[2] "that commission taking rise from the desire of the people that removed, who judged it inconvenient to go away without any frame of government, — not from any claim of the Massachusetts of jurisdiction over them by virtue of Patent."[3] It was, in fact, an agreement, ratified in the presence of the Massachusetts general court, between the founders of Connecticut and the representatives of the Earl of Warwick's grantees, who, as the instrument sets forth, had "sometime engaged themselves and their estates in the planting of the river of Connecticut," and had already made a beginning at Saybrook. "That some present government may be observed," Roger Ludlow, William Pynchon, John Steele, William

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[1] Conn. Records, i. 20–25. [2] Mass. Records, i. 170.

[3] Records of Comm'rs of N. England; Hazard, ii. 119 (corrected by MS. Record).

Swaine, Henry Smith, William Phelps, William Westwood, and Andrew Ward, — two from each of the plantations afterwards named Windsor, Hartford, Wethersfield, and Springfield, — were authorized to hold courts for the trial of civil causes, to punish offenders, and to make orders "for the peaceable and quiet ordering the affairs of the said plantations." But it was expressly provided "that this commission shall not extend any longer time than one year from the date thereof."

The first "General Court" — in which the river towns were represented by their "committees" — was held on the first day of May, 1637[4]. No reference to the election of magistrates or committees appears on the records until the following year, when at the close of the session of February 9th, it was

"Ordered that the general court now in being shall be dissolved, and there is no more attendance of the members thereof to be expected except they *be newly chosen* in the next general court."[5]

There are records of two sessions of the general court, March 8th and April 5th, 1638, in both of which the names of Mr. Pynchon and Mr. Smith of Springfield (Agawam) appear in the roll of magistrates present.[6] In the April court that plantation was represented also by "committees." A letter of the Rev. Thomas Hooker, written in the autumn of 1638, supplies an omission in the records, by showing how the general court was at this period constituted, and under what obligation the magistrates were invested with authority:

"At the time of our election, the committees from the town of Agawam came in with other towns, and chose their magistrates, installed them into their government, took oath of them for the execution of justice according to God, and engaged themselves to submit to their government, and the execution of justice by their means and dispensed by the authority which they put upon them by choice."[7]

The germ of the first written Constitution — the voluntary compact of January, 1639, of which the Charter of 1662, the declaration of State independence in 1776, and the Constitution of 1818, were the necessary outgrowths — may be found in a sermon preached by Mr. Hooker before the general court in May, 1638:[8] "The foundation of authority is laid, firstly, in the free

[4] Conn. Col. Records, i. 9. [5] Ibid., i. 12.
[6] Ibid., i. 13, 17. [7] Coll. Conn. Hist. Soc., i. 13. [8] Ibid., 20.

consent of the people. . . . The choice of public magistrates belongs unto the people, by God's own allowance. . . . They who have power to *appoint* officers and magistrates, it is in their power, also, *to set the bounds and limitations of the power* and place unto which they call them."

A few months later, Mr. Hooker, writing to Governor Winthrop, of Massachusetts, cited "the old rule, *Quod ad omnes spectat, ab omnibus debet approbari*," and avowed his conviction that, "on matters of greater consequence, which concern the common good, a general counsel, chosen by all, to transact businesses which concern all," is "most suitable to rule, and most safe for relief of the whole." But, he argues, it is not enough that the people exercise their right of choosing their counselors and judges; "the question here grows—what *rule* the judge must have to judge by." There must be established law, "to have chief rule over rulers themselves." "That in the matter which is referred to the judge, the sentence should lie in his breast, or be left to his discretion, according to which he should go,—I must confess," wrote Hooker, "I ever looked at it as a way which leads directly to tyranny, . . . and must plainly profess, if it was in my liberty, I should choose neither to live nor leave my posterity under such a government."[9] And in this declaration is suggested, not doubtfully, the motive which impelled Hooker and his associates to withdraw from the jurisdiction of Massachusetts and to found a new colony in the valley of the Connecticut. For in Massachusetts, though "the *people* had long desired a body of laws, and thought their condition very unsafe while so much power rested in the discretion of magistrates," "great reasons there were which caused most of the *magistrates* and some of the elders *not to be very forward* in this matter."[10] Governor Winthrop himself believed that the magistrate was sufficiently bound by his oath of office and his church covenant, though he pronounce sentence "not by any rule particularly prescribed by civil authority," and moreover, he was firmly persuaded of "the unwarrantableness and unsafeness of referring matter of counsel or judicature to the body of the people, *quia*, the best part is always the least, and of that best part the wiser part is always the lesser."[1]

The Constitution of 1639 vested "the supreme power of the

[9] Coll. Conn. Hist. Society, i. 11. [10] Winthrop's History, i. 322.
[1] Ibid., ii. 350; Reply to Vane, 1637, in Hutchinson's Collection, 98.

commonwealth" in a "general court" to be composed of the governor, magistrates, and deputies from the several towns. It provided for the annual election, by a major vote of "the whole body of freemen," by ballot, of a governor and magistrates, who, after being severally sworn, in prescribed form, were empowered "to administer justice according to the laws here established, and for want thereof according to the word of God." Only freemen of the commonwealth were eligible to the magistracy, and the governor must be "a member of some approved congregation, and formerly of the magistracy." No person might be re-elected governor "above once in two years," and no person might be chosen a magistrate unless placed in nomination at a previous general court.

"Two general assemblies or courts" must be held yearly; the first, in April, to be the "Court of Election." If the governor and magistrates should at any time neglect or refuse to call either of these two "standing courts, or a special session of the court," when the occasions of the Commonwealth require, a majority of the freemen might issue summons, meet together, choose a moderator, and exercise all the powers of a general court. No court might be adjourned or dissolved without the consent of a majority of its members.

Each of the three towns—Springfield having already withdrawn from the jurisdiction of Connecticut—was authorized to send four deputies to every general court. The deputies must be freemen of the Commonwealth, but in the choice of deputies (which must be by ballot) all who had been admitted inhabitants of the town, and had taken the oath of fidelity, might vote. "And whatsoever other towns shall hereafter be added to this jurisdiction, they shall send so many deputies as the Court shall judge meet, a reasonable proportion to the number of freemen that are in the said towns being to be attended therein." Only the general court had the power to admit freemen,—residence within the jurisdiction and previous admission as an inhabitant of one of the towns being the only qualifications required by the constitution.

The deputies were authorized to meet by themselves, before the meeting of the general court, "to advise and consult of all such things as may concern the good of the public," and to inquire into the legality of the election of any of their number; the au-

thority of final decision that an election was illegal, being reserved to the court.

The governor was sworn to "promote the public good and peace," "to maintain all lawful privileges of this Commonwealth," to execute "all wholesome laws that are or shall be made by lawful authority here established," and "to further the execution of justice according to the rules of God's word." Similar obligations were imposed by the oath prescribed for magistrates.[2] Every freeman must acknowledge himself "subject to the government of the jurisdiction of Connecticut," and must swear "to be true and faithful unto the same," to submit person and estate thereunto, and "neither to plot nor practise any evil against the same." [3]

The power to make and repeal laws, to levy taxes, to admit freemen, and to dispose of unappropriated lands, was exclusively in the general court, which also "shall have power to call either court or magistrate, or any other person whatsoever, into question for any misdemeanor, and may for just causes displace, or deal otherwise, according to the nature of the offence."

One peculiarity of this earliest Constitution must not be overlooked. The only allegiance it exacts is to "the government of the jurisdiction of Connecticut:" the only "supreme authority" it recognizes is that of "the body of the freemen" and the general court in which they are represented by their deputies; it demands obedience to no laws except such as "are or shall be made by lawful authority *here* established—and for want thereof, the rule of the word of God." There is no word or hint of submission to any sovereign power not directly exercised by or proceeding from the people. Connecticut was already an independent republic.

The right to alter or add to the Fundamental Orders, though not explicitly affirmed, was understood to remain with the freemen in general court assembled. It was repeatedly exercised between 1639 and 1662. In 1645, it was ordered that a lawful court might be held by the Governor or Deputy and *three* other magistrates (instead of the Governor or Moderator and four magis-

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[2] Conn. Col. Rec., i. 25, 26. [3] Ibid., 62, 63. The oath of a freeman was not recorded—and perhaps its form was not prescribed—till April, 1640.

trates) with a majority of all the deputies chosen, but "no act shall pass or stand for a law which is not confirmed both by the major part of the said magistrates and by the major part of the deputies there present in court, both magistrates and deputies being allowed, either of them, a negative vote" on the action of the others.[4] At the Court of Election in 1646, "the Freemen ordered" a change in the time of holding the Court thereafter—from April to May.[5] In May, 1647, the Governor or deputy and *two* magistrates were authorized to hold "particular courts" for the administration of justice when occasion should require.[6] In April, 1660,—just before the expiration of John Winthrop's first year of office as governor—the general court "*propounded* to the consideration of the freemen", an alteration of the fundamental law which prohibited the election of the same person as governor in two successive years, and at the ensuing Court of Election, "it was voted by the freeman" that "for the future there shall be liberty of a free choice yearly, either of the same person or another."[7]

In two or three instances the general court gave, and established by law, a new *construction* of some provision of the Fundamental Laws. In 1643, the court "declare their judgment" that those only shall be deemed "admitted inhabitants" who shall be so admitted "by a vote of the major part of the town that receiveth them," and again in 1657, the court ordered "that by admitted inhabitants in the 7th Fundamental, *are meant* only house-holders that are one and twenty years of age, or have borne office, or have thirty pounds' estate."[8]

The Charter procured from Charles II. (April 23, 1662,) was not regarded as a grant of new powers, but as a formal recognition of the government already established by the people and a confirmation of the rights and privileges they had exercised from the first. As a guaranty of their title to the soil and a safeguard of their liberties against the aggression of neighboring governments and the possible encroachment of the Crown,—as an admission of the colony's virtual independence of king or parliament, in all that concerned internal administration of government,—the royal charter was a precious gift, and came to be the object of al-

[4] Conn. Col. Rec. i. 119. [5] Ibid., 140. [6] Ibid., 150.
[7] Conn. Col. Rec., i. 346, 347. [8] Ibid., 96, 293.

most superstitious regard. But it did not in any way affect the relations previously established between the people and their chosen rulers. The frame of government continued to rest on the same broad foundation on which the Constitution of 1639 had placed it, and "the supreme power of the Commonwealth" was made to consist, as before, in the general court.

The first draft of the charter itself, so far as it affected the liberties of the colony, was in fact prepared by the general court in Hartford, and the colony's agent was instructed that the patent to be procured should comprehend "all the rights, privileges, authority and immunities that are granted in the Massachusetts colony's patent." Two or three lines which were finally erased from these instructions to Winthrop show, more clearly perhaps than any clause of the perfected draft, in what light the general court regarded the object of the petition they preferred "to the King's majesty:" "But if it cannot be granted that the bounds [of the colony's jurisdiction] may extend at least to Hudson's River, *we do not judge it requisite to expend money upon a Patent.*"[9] The King was petitioned to bestow his royal favor and grace "*according to the tenor of a draft* or instrument" that the Court submitted for his formal approval.[10] In this view, "it was not a charter of King Charles, but a charter of *the people*; and under it the people exercised all the powers of government, and enjoyed as much freedom as had ever fallen to the lot of any community. "The application of the people for the charter and their voluntary acceptance of it, gave efficiency to the government it constituted, —and not the royal signature,"[2]—in the judgment of those who enjoyed the privileges it recognized and affirmed.

When the American colonies declared their independence of Great Britain, the *royal* and *provincial* governments were thereby dissolved, but that of Connecticut remained unchanged. The General Assembly in October, 1776, after recording their approval of the Declaration of July 4th, and resolving "that this Colony is and of right ought to be a free and independent State, and the inhabitants thereof absolved from all allegiance to the British Crown,"—declared:

[9] Conn. Col. Rec., i. 580, 581.

[10] Petition, in Trumbull's Hist. of Conn., i. 511, 512.

[1] Speech of Hon. Jona. W. Edwards, in the General Assembly, May, 1818.

[2] Swift's System of the Laws of Connecticut, i. 56.

"That the form of Civil Government in this State shall continue to be as established by Charter received from Charles the Second, King of England, so far as an adherence to the same will be consistent with an absolute Independence of this State on the Crown of Great Britain, &c."

In the revision of the laws in 1784, a similar declaration is incorporated with the "Act containing an Abstract and Declaration of the Rights and Privileges of the People of this State." The preamble of this act affirms that,

"The people of this State, being, by the Providence of God, free and independent, have the sole and exclusive right of governing themselves as a free, sovereign, and independent State; and having from their ancestors derived a free and excellent constitution of government, whereby the Legislature depends on the free and annual election of the people, they have the best security for the preservation of their civil and religious rights and liberties."

The first section of the act is as follows:

"Be it enacted and declared by the Governor, Council and Representatives, in General Court assembled, and by the Authority of the same, that the ancient form of Civil Government, contained in the Charter from Charles the Second, King of England, and adopted by the People of this State, shall be and remain the Civil Constitution of this State, under the sole authority of the People thereof, independent of any King or Prince whatever."[3]

In May, 1777, an act was passed "prescribing the form of an oath to be taken by the freemen of this State," by which those receiving it were bound "to be true and faithful to the Governor and Company of this State, and the *Constitution* and government thereof." Every freeman was required to take this oath before being allowed to vote in the election of any officer of the government. The same form—with the substitution of "said State," for "the Governor and Company of this State"—was incorporated in the revision of 1784.

If the government of the colony, before the revolution, derived its authority from the consent of the people, and not from the royal charter—and such was the opinion of distinguished jurists—then, "the constitution which originated from the people, and had been practised upon, continued in operation after the declaration of independence, in the same manner as before, and was

[3] Rev. Acts and Laws, 1784, p. 1.

equally valid;" the act of 1776, to establish and perpetuate it, was merely declaratory, and there was no necessity of calling a convention of the people, either to ratify the action of the general assembly, or to agree on a new form of government.[4]

But on this point, questions soon began to be raised. The author of a pamphlet printed in 1782,[5] propounds "a modest and decent inquiry, whether, in this State, since our Charter has been vacated by King, Lords, and Commons, our Independence declared by Congress and ratified by the Legislature of this State, we have, strictly and properly speaking, *any Civil Constitution?*" He contends that the charter by which the colony was invested with all the powers of government and legislation, having been vacated, "whatever powers of government we derived from our charter, terminated with it," and that when "the King who grants, and a corporation possessed of a charter, both agree to declare it null and void, it is vacated to all intents and purposes whatever;" that the civil constitution of Connecticut having thus terminated with the charter, "it most certainly was the undoubted right of the *People* to say, whether they would be governed by our old form of government, or whether they chose to frame a new one;" and, "if that *is* the right and prerogative of the people, to say how and in what manner they choose to be governed," then "the making new forms of civil government, or establishing old ones, is not the proper business of our representatives, without that power being specially delegated to them by the people," and "it now lies with them [the people] to say whether they will abide in the same situation we now are in, or to appoint a committee of delegates, well qualified to so important an undertaking" as that of

[4] So thought Judge Swift, *System of the Laws of Connecticut*, i. 57, 58. Judge Root (C. J., 1796-1807), in the introduction to the first volume of his *Reports of Cases Adjudged*, discusses "the origin of governments and laws in Connecticut," and argues that, though all connection with the crown of England was broken and dissolved by the revolution, yet "the Constitution of the State remained, in all other respects, the same unaltered basis of government, in its principles, regulations, and efficient powers, which it had ever been from its first foundation and establishment."

[5] "Brief, Decent, but Free Remarks and Observations on Several Laws passed by the Honorable Legislature of the State of Connecticut, since the year 1775. By a Friend to his Country. Hartford, 1782." (8vo, p. 55.) The authorship may be confidently assigned to Dr. Benjamin Gale, of Killingworth—who adopted nearly the same course of reasoning, and in the same style, in his letter to Erastus Wolcott, quoted on the following page. I have a copy of this pamphlet with Dr. Gale's autograph presentation to Christopher Leffingwell.

framing a constitution. He states that the action of the general assembly in 1776 was "looked upon by the more thinking and judicious, only as a temporary thing, until our troubles should be over, and our independence acknowledged; and I know some freemen," he adds, "who were conscientious in those matters, neglected to take the freeman's oath, upon these very principles, who cheerfully took the oath of allegiance and fidelity to the States—supposing the assembly's adopting our charter constitution *de novo*, uninstructed, to be unprecedented, and that it contained some things which in our state of independence are not salutary."[6]

At the October session, 1786, a bill was offered in the House of Representatives, for referring to the freemen a proposition to reduce the number of representatives. Mr. James Davenport (of Stamford) moved to substitute for this a bill to reduce the number of representatives, without the reference to a vote of the freemen. Several members objected, that this was "a constitutional question; the assembly having no right to alter the representation without authority given by their constituents." Mr. Davenport replied:

"We *have no Constitution* but the laws of the State. The *Charter* is *not the Constitution*. By the Revolution, *that* was abrogated. A law of the State gave a subsequent sanction to that which before was of no force; if that law be valid, any alterations made by a later act will also be valid; if not, we have no Constitution so defined as to preclude the Legislature from exercising *any* powers necessary for the good of the people."[7] The objection to the introduction of the bill was sustained by the House, by a small majority.

A few months later (February, 1787), Dr. Benjamin Gale, in a letter to Gen. Erastus Wolcott (who was then a representative in Congress), wrote, confidentially, as follows:[8]

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[6] Pp. 24-27. The writer points out three particulars in which alterations of or additions to the established form of government might prove of advantage to the State; (1) a constitutional provision "that no citizen shall hold at one and the same time, more than one place of public trust, either civil or military;" (2) a reduction of the number of representatives to one from each town, and (3) an increase of the number of councillors (or upper house) to three from each county, to be chosen by the several counties, and not on a general ticket. pp. 34, 35.

[7] New Haven Gazette and Conn. Magazine, Nov. 2, 1786, p. 297.

[8] This letter is with the Wolcott MSS. (vol. iv.) in the Library of the Conn. Historical Society.

"Since I am speaking of Constitutions, suffer me to tell you, in this State *we have no civil constitution at all.* Our charter, while in force, was a grant of privileges by the Crown of England to the inhabitants of this colony. After the Crown vacated our charter, we ratified it by our Declaration of Independence. Our assembly voted it should be deemed the Civil Constitution of this State. But, sir, you know that a civil *constitution* is a *charter*, a *bill of rights*, or a *compact* made between the rulers and the ruled. Most certain, our charter can in no sense of propriety be so reputed. Our representatives are in no sense chosen to frame a civil constitution for us, nor is any general assembly which I ever yet saw, collectively considered, proper persons to frame a civil constitution. They are too numerous a body; nor do they sufficiently understand government, to do this thing."

In the pamphlet of 1782 ("Brief, Decent, but Free Remarks," &c.) Dr. Gale had suggested the same objections to referring to the general assembly so "nice, delicate, and important an affair," and proposed "that each town be directed to make the nomination of one man, for that end; and that the honorable assembly, out of that nomination, elect two, four, or six, in each county, to carry the same into execution," by framing a new constitution, which shall be printed, and submitted to the people "deliberately to adopt or reject it." (p. 29.)

The author of "An Address to the Legislature and People of Connecticut, on the subject of dividing the State into Districts for the Election of Representatives in Congress," printed in (January) 1791,[9] advocates the *amendment* of the constitution by a convention to be specially entrusted with that work. Though Connecticut "has the merit of giving, at a remote period, a degree of perfection to some parts of her constitution, which, if it be not final, is at least unrivalled," yet, says this writer:

"I am sensible that the constitution is susceptible of a great number of fundamental improvements; and I look forward, with an anxious heart, to that mature and happy season, when the spirit of people will admit of a great and radical reform, by their own delegates commissioned for this express purpose. I am aware that the policy of assembling a convention, and establishing a form of government superior to the power of the legislature, has been called in question by some; and in particular, has been

[9] "By a Citizen of Connecticut." Printed in New Haven. 8vo, p. 37.

ingeniously controverted by a writer of our own State, whose merit I have in high estimation. But whatever influence his reasonings might have in my mind, in respect to the strictness of principle, I must acknowledge I should despair of ever seeing a complete reform in the political establishments of this State accomplished in the ordinary course of legislation. The question then in my mind is whether the great and pressing importance of renovating a defective and unbalanced government will not justify a departure from that strict political principle on which the legislature would claim all the powers of the community."

Prior to 1800, the number of those who denied the validity of the act of 1776 and maintained the necessity, or the propriety, of calling a convention to frame a new constitution, was very small. The doctrine laid down by Judge Swift in 1795, is that which was generally held by the leaders of public opinion, was sustained by the courts, and accepted by a large majority of the freemen :

"Some visionary theorists have pretended that we have no constitution, because it has not been reduced to writing, and ratified by the people. It is, therefore, necessary, to trace the constitution of our government to its origin, for the purpose of showing its existence, that it has been accepted and approved by the people, and is well known and precisely bounded..... The colonial governments of Connecticut and New Haven derived their authority from the voluntary association and agreement of the people. Here the social compact was made and entered into, in the most explicit manner... The application of the people for the charter [of 1662], and their voluntary acceptance of it, gave efficacy to the government it constituted, and not the royal signature.... During the whole period of the existence of the colonial government, Connecticut was considered as having only paid a nominal allegiance to the British Crown, for the purpose of receiving protection and defence, as a part of the British empire ; but always exercised legislation respecting all the internal concerns of the community, to the exclusion of all authority and control from the King and parliament, as much as an independent State."

"The necessary consequence was that the renunciation of allegiance to the British crown, and the withdrawing from the British empire, did not in any degree affect or alter the constitution of the government. The constitution which originated from the people, and had been practised upon, continued in operation, after the declaration of independence, in the same manner as before, and was equally valid. The people were only discharged from a nominal allegiance to Great Britain.... Their internal government remained unaltered and the same.... The general assembly ratified and confirmed the declaration of independence, they passed an act

recognizing the ancient form of government, they made such alterations and introduced such amendments, as the change of circumstances required. If the principles before stated are true, then the conduct of the legislature was constitutional, and there was no necessity of calling a convention of the people to agree on the form of the government."[10]

Even if it be admitted that the charter was the sole basis of government, and, consequently, that separation from Great Britain annulled the constitution—that the legislature having no power to act under the former constitution, could give their acts no binding authority on the people—"yet the *subsequent conduct* of the people," says Swift, "in assenting to, approving of, and acquiescing in the acts of the legislature, has established and rendered them valid and binding, and given them all the force and authority of an express contract. . . . The assent of the people may be *expressed* by delegates chosen for that purpose to meet in convention, or it may be *implied* by a tacit acquiescence and approbation."

The same doctrine was maintained by Mr. (afterwards Chief Justice) Daggett, in an anonymous pamphlet published in 1805.[1] "Nothing can be more groundless and false," he says, than the statement that the existing government "never had the consent and sanction of the people":

"It was originally framed and adopted by the people.... In all their elections, in all their appointments of officers, the people have *practically* assented to this government as the government of their own choice; and this *practical assent* continued for ages, and repeated hundreds of times by their own voluntary acts, is the strongest possible evidence of a hearty approbation; it is an approbation, too, that has rested on the surest foundation—that of *a long and thorough experience*.... More than almost any other government upon earth, it is *the legitimate child of the people*, who have hitherto constantly nursed it and cleaved to it with affectionate attachment; and whenever the people (far off be the day!) shall cease to give it their voluntary assent and support, it must instantly fall."

While the notion that no constitution could be valid without formal ratification by the freemen was making its way from the brains of "some visionary theorists" to the apprehension of a considerable minority of the people, a new political party had grown up in Connecticut and the "anti-fœderalists"—who afterwards

[10] Swift's System of the Laws of Connecticut, vol. i., pp. 55-58.

[1] "Steady Habits Vindicated," &c., p. 11.

took the name of "republicans," but were stigmatized by their opponents as "democrats,"—became strong enough in numbers and influence seriously to embarrass the action of the federal majority. The history of this party in the State begins with the "Middletown Convention" of September 30th, 1783,—or more accurately, with the manifestation of opposition to the "commutation act" by which Congress granted five years' full pay to the officers of the revolutionary army, in lieu of half pay for life. In the summer of 1783, town meetings were held in several towns, at which the justice of this payment was called in question, and resolves were passed denouncing it as oppressive to the people, and subversive of the principles of a republican government. A convention was called by committees of Hartford, Wethersfield, and Glastenbury, to meet at Middletown on the third of September, to consider this subject and devise a mode of redress. At the adjourned meeting of this convention, Sept. 30th, about fifty towns—a majority of all the towns in the State —were represented, and a petition or remonstrance against the commutation was addressed to the general assembly. At a second adjourned session, Dec. 16th, opposition to the order of the Cincinnati was manifested, by commending a pamphlet which had recently been published against that society, by Judge Ædanus Burke of South Carolina. At the last meeting, in March, 1784, an address to the people of Connecticut was framed, presenting objections to the commutation act and to the Cincinnati.[1]

When the question of ratifying the federal constitution was submitted to a convention in 1788, the vote in the affirmative was one hundred and twenty-eight; in the negative, or anti-federal, forty—about one-fourth of the whole. This nearly represents the relative strength of the two parties in Connecticut at this time and for some years afterwards.

Among the prominent anti-federal leaders of this period, were some who had filled high offices in the State, distinguished patriots of the revolution, and men of influence in the general assembly as well as among their immediate constituents. William Williams of Lebanon (a signer of the Declaration), Gen. James Wadsworth of Durham, Gen. Erastus Wolcott of East Windsor, —all members of the Council, or upper house,—Dr. Benjamin

[1] See Noah Webster's "History of Polit. Parties in the U. States," in "A Collection of Papers" &c. (1843), pp. 317—320.

Gale of Killingworth, Joseph Hopkins, Esq., of Waterbury, Col. Peter Bulkley of Colchester, Col. William Worthington of Saybrook, Capt. Abraham Granger of Suffield,—were counted with the opposition, and denounced by the zealous supporters of the administration, as anti-federalists, 'democrats', 'anarchists,' or worse.[2]

After the ratification of the national constitution, there was, for a few years, comparative quiet in Connecticut politics. It was not until the last year of John Adams's administration, that the "steady habits" of the State were again disturbed by the violence of party. Federalism was never more absolutely dominant than in 1798. Two years afterwards (Aug. 3, 1800) Fisher Ames, of Massachusetts, in a letter to Oliver Wolcott of Connecticut—who was then secretary of the treasury,—foreboding defeat in the approaching presidential election, suggested a truth which experience authorizes us to regard almost as a general law of political revolutions in a republic: "Perhaps a party whenever it thinks itself strong, naturally splits; nothing but dread of its rival will bind it firmly enough together."[3] The federalists were already divided, and knowledge of this fact, which could no longer be concealed from the people, revived the hopes and stimulated the energies of the opposition.

It was certain that Mr. Adams could not again receive the unanimous vote of his party, for the presidency. For reasons, the soundness of which need not be discussed here, he had lost the confidence of influential federalists in Connecticut. "It is with grief and humiliation, but at the same time with perfect confidence"—wrote Oliver Wolcott, to George Cabot of Massachusetts, in June, 1800,—"that I declare that no administration of the government by President Adams can be successful. . . It is clear to my mind that we shall never find ourselves in the straight road of federalism while Mr. Adams is president."[4] Uriah Tracy assured Senator Stockton of New Jersey, "that the

[2] To what height party spirit had risen in 1786–7, and with what extravagant license the federal wits, and the federal press generally, assailed their opponents, may be seen in "*The Anarchiad,*" a series of papers in verse, originally published in the *New Haven Gazette,* which are understood to have been written by Col. David Humphreys, John Trumbull, Joel Barlow, and Dr. Lemuel Hopkins,—possibly, with some help from Dr. Dwight.

[3] Gibb's Memoirs of the Administrations of Washington and Adams, ii. 396.

[4] Ibid. ii. 371.

State of Connecticut would do any thing to promote the true interest of the government at this crisis; that they had no predilection; on the contrary, the men of most importance were disgusted and entirely alienated from the president."[5] Two months later, Wolcott, in a letter to Fisher Ames, not only expressed his conviction that "Mr. Adams ought not to be supported," but intimated a doubt whether "his re-election would be a less evil to the country than to incur any risque of the promotion of Mr. Jefferson": for, "however dangerous the election of Mr. Jefferson may prove to the community, I do not perceive that any portion of the mischief would be avoided by the election of Mr. Adams."[6] "Let who will be president"—so thought Chauncey Goodrich,—"the pride of American character and office for awhile must be faded"; as for Connecticut, "the public mind is puzzled and fretted. People don't know what to think of measures or men; they are mad because they are in the dark."[7]

When leaders speculate on the advantages of defeat, and the rank and file are "puzzled and fretted," opposition is likely to gain a good many new recruits. The republicans understood how to take advantage of the situation. The federalists began to admit that, even in Connecticut, "the skilful attacks of a vindictive and intelligent opposition," were becoming formidable,—were "destroying all confidence" in the administration, even while "the papers on *our side* are filled with toasts and nonsensical paragraphs attributing wisdom and firmness to the President."[8] Gen. Ebenezer Huntington wrote from Norwich, in August: "There is a change of opinion affecting the people of this State; and at present, I am doubtful what extent it will gain. There are many who have heretofore assumed the character of federalists, who have lately shown themselves *democrats*, and are high in their commendation of Jefferson, in hopes to partake of the loaves and fishes which are to be distributed by the new President."[9] (The federalists spoke of their opponents, indifferently, as "Jacobins," or "democrats,"—never conceding to them an exclusive right to the designation of "republicans.")[10]

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[5] Ibid. ii. 374. [6] Ibid. 401. [7] Ibid. 394.

[8] Ibid. 371 (Wolcott to G. Cabot). [9] Ibid. 398.

[10] Abraham Bishop, in an Oration on "Connecticut Republicanism" (New Haven,

National defeat, in the election of Mr. Jefferson, restored union to the federal party in Connecticut. Its relative strength was somewhat impaired by desertion, and—to say nothing of changes wrought by honest convictions—"the loaves and fishes," might now and then tempt a straggler to the republican camp. But the State, as well as the national government, had its rewards for the faithful, and the federal managers took care that these were judiciously distributed. The party was no longer without that wholesome "dread of its rival," so essential to the preservation of union: but it was strong enough to maintain, for sixteen years yet, against a vigorous opposition, and all the republican influences which could be brought to bear from without, absolute control of the State government and of legislation. It was the boast of the federalists, and the sneer of their adversaries, that the "steady habits" of Connecticut were too firmly established to be affected by changes in the national administration or in neighboring States. The Republican Watch-Tower (Cheetham's paper) of New York, in an article on "Connecticut Policy," June 17th, 1801, declares that

"The sentiments of the State have been marked, as well while a colony as now, with a steadiness that excludes both retrogradation and advancement. Like an isthmus, inanimate and immovable, she bids defiance to the meliorating progression made on both sides of her. The advancement of political science, generated by our revolution, has neither changed her constitution nor affected her *steady habits*. . . . A fanatic veneration for a pampered, deluding and anti-christian priesthood, renders [her people] the dupes of their cunning, and subservient to their power. . . . And the citizens, really honest, but enveloped in superstition, are converted into instruments by the cunning of their priestly rulers, to debase themselves and to exalt their oppressors."[11]

"The *steady habits* of New England," said Mr. Abraham

Sept, 1800,) seems to accept for his party the name of *Democrats*. "The terms 'republicans' and 'democrats' are," he says, "used synonomously throughout the oration, because the men who maintain the principles of 1776, are characterized by one or the other of these names in different parts of the country" (p. 7).

[11] "Every person who has read the principal Jacobin gazettes for a considerable time past," says Mr. Dwight, in his Cincinnati oration, with reference to this extract from the Watch Tower, "must have seen that there is existing a peculiar animosity against the government, institutions, clergy, and people, of Connecticut." The federalists reciprocated all the animosity, and were noways humbled by the rebukes they

Bishop, in his oration at Wallingford, March 11th, 1801, "present the fourth obstacle to the diffusion of truth. The sailor nailed the needle of his compass to the cardinal point, and swore it should not be always traversing. So does the New England friend of order."

"It has become very fashionable," replied a federal orator, "to ridicule the attachment of the people of Connecticut to their *government*, their *institutions*, and their "*steady habits*." But before we add our sneers to those of the Jacobins', let us devote a few moments to a consideration of the *nature* and *effects* of that government, those institutions, and habits." In the course of this review, he remarks:

"Connecticut exhibits the only instance in the history of nations, of a government *purely Republican*, which has stood the test of experience for more than a century and a half, with firmness enough to withstand the shocks of faction, and revolution. Our government is a government of

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constantly received from the "Jacobin" press of other states. They boasted of the position of their State, "placed as a bulwark against the approaches of a disorganizing spirit." "However enslaved they may be, either by superstition or priestcraft, the people of Connecticut have got sense enough left, to appreciate the merits of those who thus traduce their character, country, government and religion, whether they spring from her own soil, or are the renegadoes of Europe." "If we are to learn the principles of liberty and government from the Coopers, Callenders, Duanes, and Cheethams, of England, Scotland, and Ireland, we have got to pass through a tremendous and bloody schooling." (Dwight's oration, 15, 32, 41.) The following lines from "Sketches of the Times, for the year 1803"—a New Year's address for the Hartford *Courant*, 1804, (re-printed with "The Echo," in 1807), were probably from Theodore Dwight's pen:

"And here, in erring reason's spite,
'Mid storms of truth, and floods of light,
Unmov'd by threats, unaw'd by fears,
CONNECTICUT her front uprears.
On Democratic frontiers plac'd,
By spirits base and foul disgrac'd,
Annoy'd with Jacobinic engines,
And doom'd to Governmental vengeance,
Straight on her course she firmly steers,
Nor jibes, nor tacks, nor scuds, nor veers,
Not the whole force they all can yield,
Can drive her vet'rans from the field.
The same pure, patriotic fires
Which warm'd the bosoms of their Sires,
That generous, that effulgent flame,
Which glow'd in Winthrop's deathless name,
Unsullied through their bosoms runs,
Inspires and animates her sons."

practice, and not of theory.... Resting its claim to pre-eminence on the ground of long experience and practice, it sets all theory at defiance. At the same time, it is not easy to say what constitutes its strength and force.... We have, *in fact*, no written constitution, no executive power or patronage."[1]

In a note to this oration, Mr. Dwight gave a sketch of the constitutional history of the State, and of the provisions of the charter of 1662, which was "little more than a re-establishment of the first constitution, with somewhat more explicitness."

"This charter, of course, stands at the head of our laws, as the only constitution which the State possesses... It impowers the inhabitants of the corporation to plead, and to be impleaded, in legal suits, to have a seal, to choose yearly a governor, deputy-governor, and twelve assistants, to hold two general assemblies in a year, to appoint and admit freemen, to elect officers, to erect judicatories, to ordain laws, to impose fines, and to erect wharves for the purpose of drying fish. With *no other powers than these*, it would seem impossible that a Colony, or State, could possibly exist in peace and safety for so long a time as since the year 1639. Such, however, is the fact, and it is owing to the rectitude of the administration of the government, and the effects of the institutions established under it. All the defects in the constitution have been supplied by practice; and the practical range is as well understood as though every principle had originally been reduced to writing."[2]

"Steady habits" and federalism came to be regarded as synonomous terms; and a distinguished federal writer, in 1805, in "a serious remonstrance to the people of Connecticut, against changing their government," reminds them, that "a new structure or form of government would gradually produce a correspondent change in manners, and your *steady sober habits*—the theme of ridicule, but the real glory of Connecticut—would be lost."[3] The minority complained that "every man who cherished republican principles, was derided and abused as a deserter from steady habits."[4]

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[1] Theodore Dwight's Oration at New Haven, before the Society of the Cincinnati, July 7, 1801. pp. 7, 8.

[2] Ibid. p. 35.

[3] Steady Habits Vindicated, or a Serious Remonstrance &c. By a Friend to the Public Welfare [David Daggett, Esq.] Hartford, 1805. p. 14.

[4] Abraham Bishop's Oration, 1804. (p. 15.)

Though leading republicans had, from time to time, urged the necessity and importance of forming a new constitution, to be submitted to the people for ratification, it was not until the year 1804, that this measure was incorporated in the republican platform. It was brought prominently into notice by Abraham Bishop, of New Haven, in an oration delivered in Hartford, May 11th, 1804, at a republican celebration, "in honor of the election of President Jefferson, and the peaceable acquisition of Louisiana."[5]

"At the Declaration of Independence," said Mr. Bishop, "the charter of Charles II. became of no effect and it was proper that the people of this free State should, like the people of other free States, have been convened to form a constitution. But the Legislature, which was not empowered for that purpose, and which may repeal at pleasure its own laws, USURPED the power of enacting, that the form of government contained in the charter of King Charles should be the civil constitution of this State. Thus, by the pleasure of his Majesty, all the legislative, executive, and judicial powers of government tumbled into a common mass, together with the power of raising armies, whenever the stockholders of power should think best.

"This precise condition of society, absurd and unsafe as it is in theory, has proved far more so in practice. At the present moment all these powers, TOGETHER WITH A COMPLETE CONTROL OF ELECTIONS, is in the hands of seven lawyers,[6] who have gained a seat at the council board. These seven men virtually make and repeal laws as they please, appoint all the judges, plead before those judges, and constitute themselves a supreme court of errors to decide in the last resort on the laws of their own making. To crown this absurdity, they have repealed a law which prohibited them to plead before the very court of which they are judges." (pp. 9, 10.)

After pointing out various evils which, from the republican point of view, were necessary results of "such complicated usurpation of power," he proposes (p. 16) as the remedy—

"That the people shall be convened to form A CONSTITUTION WHICH

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[5] "Printed for the General Committee of Republicans." From Sidney's Press, 1804, 8vo, pp. 24.

[6] In a note, Mr. Bishop named "Messrs. Daggett, [Nathaniel] Smith, Chauncey Goodrich, [Jonathan] Brace, [John] Allen, [William] Edmond, and [Elizur] Goodrich,—holding the same undefined powers which their predecessors have held, and which their successors shall hold, till we shall have a constitution."

SHALL SEPARATE THE LEGISLATIVE, EXECUTIVE, AND JUDICIAL POWERS,—SHALL DEFINE THE QUALIFICATIONS OF FREEMEN, SO THAT LEGISLATORS SHALL NOT TAMPER WITH ELECTION LAWS, AND SHALL DISTRICT THE STATE, SO THAT FREEMEN MAY JUDGE OF THE CANDIDATES FOR THEIR SUFFRAGES."

Mr. Bishop's oration was "printed by the republican general committee," and distributed throughout the State. A writer in the *American Mercury* (republican) of August 2d, 1804, "on the subject of a Constitution," says, that until the publication of this oration, "it was not generally known that the State of Connecticut had not a constitution," and recommends that the freemen in each town should hold meetings for the appointment of committees to confer on a plan for the election of delegates to a convention. The (federal) *Courant*, of August 15th, notices this recommendation, remarking that "Abraham opened on this subject on the 11th of May, and the writers in the *Mercury* seem determined to make the most of it."

That discussion of this subject should immediately assume a partisan character was unavoidable, for Mr. Bishop's political associates believed, with him, that "a constitution would give a death-blow to Connecticut federalism, and, with it, to all hostility against the general government,"[7] and some, if not all, of the federal leaders shared this conviction.

On the 30th of July, the Republican General Committee (of which Pierpont Edwards was chairman) addressed a circular to their party, stating that "many very respectable republicans are of the opinion that it is high time to speak to the citizens of Connecticut, plainly and explicitly, on the subject of forming a constitution; but this ought not to be done without the approbation of the party;" and a general meeting was proposed, to be held at New Haven on the fifth Wednesday (29th) of August.

On the day appointed, republican delegates from ninety-seven towns assembled at the state-house, in New Haven. Major William Judd, of Farmington, was chosen chairman, and Henry W. Edwards and Lemuel Whitman, clerks. The meeting was held with closed doors. It was declared, as "the unanimous opinion of this meeting, that the people of this State are at present without a Constitution of civil government," and it was thereupon resolved, "that it is expedient to take measures preparatory to

[7] A. Bishop's Oration, page 16.

the formation of a Constitution, and that a committee be appointed to draft an Address to the People of this State, on that subject." The committee reported an address, which was accepted, and ten thousand copies were ordered to be printed and distributed.[8]

The issue thus formally presented was made a prominent one in the fall election. The federalists denounced the project of a convention as revolutionary, subversive of law and order, and of the "steady habits" which had been the boast of the State. The republicans were by no means unanimous in support of the measure, notwithstanding the urgent appeals of the party press and the untiring exertions of the party managers. In September, just before the election, a federal reply to the New Haven address was printed, under the title of "Count the Cost. [An Address to the Freemen of Connecticut on sundry political subjects, and particularly on the proposition for a New Constitution. By Jonathan Steadfast."] The writer (David Daggett) reviewed the proceedings of the New Haven meeting, impugned the motives of the leaders of the movement, and presented, with remarkable ability, the arguments against the proposed change in the form of civil government. "This project," he said, "originates entirely in a spirit of Jacobinism: it is a *new* theme on which to descant to effect a revolution in Connecticut. The object is, by false assertions, to induce a belief that no constitution exists, and that tyranny prevails." Commenting on the course of the republican party for a few years previous, he comes down to "Mr. Bishop's oration on the 11th of May, declaring among other outrageous and wicked falsehoods that Connecticut had no constitution," to which he opposes Mr. Bishop's declaration in 1789, that "the Constitution of Connecticut is the best in the world,—it has grown up with the people, and it is fitted to their condition." The writer proceeds to show that "we *have* a constitution—a *free* and *happy* constitution. It was to our fathers like the shadow of

[8] It was printed on a small half-sheet, in double columns, apparently from "Sidney's Press," New Haven. Soon afterwards appeared a burlesque, printed in the same style (and at the same press,) professing to be the address and draft of a constitution "presented to the Sovereign People," by "a Convention of Republicans, styling themselves 'The Upper-House of Delegates from ninety-seven towns,'" &c. At its head stand, in large capitals, 'LIBERTY!' 'EQUALITY!' The proposed Constitution vests the Executive Power 'in Three Consuls to be chosen for life by the President of the United States, *provided he be a Republican;* if not, by the Sovereign People."

a great rock in a weary land; it has enabled them to transmit to us a fair and glorious inheritance; if we suffer revolutionists to rob us of this birthright 'then are we bastards and not sons.'" (pp. 10–13). The address closes with an eloquent and skilfully framed appeal to every freeman to "count the cost" before acting with the republicans for the proposed reform.

The result of the October election, in an increased federal majority, showed that the popular mind was not yet prepared for a radical change.

When the General Assembly met, the leaders of the dominant party, elated by success, resolved to administer a signal rebuke to the revolutionary designs of the minority. Five justices of the peace,[9] who had attended the republican meeting at New Haven and taken part in its proceedings, were cited to appear before the Assembly, "to shew reasons why their commissions should not be revoked," since "it is improper," as the preamble of the resolution sets forth, "to entrust the administration of the laws to persons who hold and teach that the government is an usurpation." Asher Miller and David Daggett were appointed managers on the part of the State, for the prosecution, and Pierpont Edwards, by permission of the Assembly, appeared as counsel for the respondents. The case was heard by the two Houses in joint convention, October 30th. Mr. Edwards argued in defence of the Justices. Mr. Daggett replied in behalf of the State. He reviewed the proceedings and the published address of the New Haven meeting, and, succinctly tracing the governmental history of the two colonies and the State, from the adoption of the compact of 1639, and the foundation of civil polity in New Haven, he aimed to "demonstrate, that the people of Connecticut, not only are not without a constitution, but are possessed of one *made by the people*, in a sense not applicable to any other people," and that theirs was, in fact, "the *only* government ever formed upon *entirely* popular principles." The original compact, he argued, "contains the vital principles of our present government."

"The people, in 1639, vested the general court, or assembly, with the power of making and repealing all laws, and of *dealing in all other matters*,

[9] Major William Judd of Farmington (who was Chairman of the New Haven meeting), Jabez H. Tomlinson of Stratford, Agur Judson of Huntington, Hezekiah Goodrich of Chatham, and Nathaniel Manning of Windham.

except the choice of magistrates. And might not the *people* grant this power? This is now our Constitution—our fundamental regulation by which power is exercised. Who then shall complain? Surely not those who reiterate with every breath, that the *people* are the source of all power. If the *people* of Connecticut made this Constitution, I intreat those who advocate the right of the *people* to make Constitutions, to permit the *people* still to enjoy it." (p. 15.)

He showed the relation of the compact of 1639 to the charter of 1662, and the acceptance of the charter by the people, not only by their action on its first receipt, but by the re-establishment of its authority after the revolution of 1689. The general assembly not only declared, in 1776, that "the form of government should *continue* to be as established by charter," but prescribed (by act of May, 1777) the form of oath to be taken by freemen, by which they were bound "to be true and faithful to the Governor and Company of this State, and *the Constitution* and government thereof." This oath, substantially, had been taken by all admitted freemen, and, since May, 1777, "more citizens have thus sworn to *support our Constitution* than there are now taxable males in the State."[10]

The New Haven address was not—he argued—"a decent expression of opinion," merely; it was "an outrage upon decency"; and it was the duty of the Legislature "to withdraw from men who denounce the government, the power of exercising its authority."

On the day after the hearing, the governor and council *unanimously* passed a bill revoking the commissions of the offending justices, and in this bill the house of representatives concurred by a majority of 67,—yeas, 123, nays, 56.

Major Judd, who was a lawyer by profession, prepared an argument in defence of himself and his associates, but soon after his arrival in New Haven—where the general assembly was in session

10. Mr. Daggett's Argument, before the General Assembly, in the Case of certain Justices of the Peace. To which is prefixed a brief History of the Proceedings of the Assembly [and a copy of the New Haven Address]. New Haven, 1804. 8vo. pp. 30. The cause of the prosecution could not have been intrusted to better hands. Mr. Daggett's argument was very ingeniously framed, and presented with great ability. But his view of the case was naturally partisan rather than judicial. After he became Chief Justice, he did not speak of the government under the charter with the same unqualified eulogy. The old constitution, he then admitted, "gave very extensive powers to the legislature, and *left too much* (for it left *everything* almost,) to their will." (Starr *v.* Pease, 8 Conn. Rep., 548).

—he was taken ill, and was unable to appear on the day assigned for the hearing before the two houses. With the help of his friends, his "brief, or summary of defence" was hurried through the press, but he died before the last sheet was printed, Nov. 13th, 1804. The next day, his "Address to the People of the State of Connecticut, on the subject of the removal of himself and four other Justices from office," was published "for the general committee of Republicans."[1]

While the bill for revoking the commissions was under discussion in the house of representatives, Mr. Samuel Hart (a member for Berlin) ventured the suggestion that "arguments against it would be unavailing, when there was the *disposition* and the *ability* to pass it." This was construed by the federal majority as an imputation on the justice and impartiality of the House, and the offender was ordered to be reprimanded by the Speaker. When called upon to rise in his place to receive the prescribed censure, Mr. Hart submitted a novel question of order, by asking "if there was any rule of the House which obliged a member to *rise*, for a reprimand?" After some discussion, the Speaker (Hon. Timothy Pitkin) gave a decision in the affirmative. An appeal was taken, and the House sustained the opinion of the chair. Thereupon, Mr. Hart *rose*, and the reprimand was given and received in due form. The "dilatory motion" and the temporary embarrassment of the majority and of the Speaker blunted the edge of the censure and occasioned great glee to the republicans.

In the spring election of 1805, the question of a new constitution was again the main issue, and again the friends of "steady habits" were successful.[2] The measure continued to hold a prominent place in the republican platform, but, for several succeeding years with decreasing probability of attainment. During the administration of President Madison, it was almost lost sight of, in the discussion of matters of more immediate and exciting interest. But opposition to the existing order of things in Connecticut was gaining strength and was no longer confined to the so-called democratic party; and when, in the spring of 1817, the contest was actively renewed, the friends of new measures were so strong in numbers, position, and influence, that success became nearly

[1] Sidney's Press [New Haven]. 8vo. pp. 24.

[2] Just before this election was published a pamphlet, entitled "Steady Habits Vindicated," etc. (Hartford, 1805). 8vo. pp. 20. Attributed to David Daggett.

certain. The "standing order," in church and state, had now to encounter a determined *sectarian* as well as a *political* opposition.

To understand the charter and extent of this opposition, it will be necessary to review, briefly, the ecclesiastical constitution of the colony and state. The foundation of this was the act of October, 1708,[3] approving the confession of faith, heads of agreement, and regulations in the administration of discipline agreed to by the synod at Saybrook, and enacting that all churches thus united in doctrine, worship, and discipline, should be "owned and acknowledged *established* by law." A proviso assured to societies and churches which "soberly differ or dissent" from the established churches, and which were allowed by law, the right of "exercising worship and discipline in their own way and according to their consciences." But dissenters were not thereby relieved of their obligations to pay their proportion of town taxes for the support of the established ministry. By a colony law (May, 1697) every town and society was required to provide, annually, for the maintenance of their minister, in accordance with the agreement made at settlement, by a tax levied "on the several inhabitants according to their respective estates."[4] A minister settled by the *major part of the householders* of a town or society was, by a law passed in 1699, to be accounted the lawful minister of such town or society, and the agreement made with him was declared to be binding on "*all* of such town."[5] And when in 1708, the general assembly, by an act "for the ease of such as soberly dissent from the way of worship and ministry established by the ancient laws of this government and still continuing," extended to all qualified dissenters in the colony, the same liberty and privileges granted by the Toleration Act of William and Mary, it was with the special proviso, that this should not be construed "to the excusing of any person from paying any such minister or town dues as are now or shall be hereafter due from them."[6]

In 1727, an act was passed directing that all taxes collected for support of the ministry, from members of the church of England, should be paid to the settled ministers of that church; and if, in any parish, the amount so paid should be insufficient to support

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[3] Col. Records, v. 87.
[4] Col. Records, iv. 198.
[5] Ibid., iv. 316.
[6] Ibid., v. 50.

the minister, the members of his church were authorized to tax themselves for the deficiency.[7] Two years afterwards, similar privileges were granted to Quakers and Baptists.[8]

At the revision of the laws in 1784, the act of 1708, recognizing "*established* churches" was omitted; and in October, 1791, the general assembly passed "an act securing equal rights and privileges to Christians of every denomination, in this State." Every dissenter who should lodge with the clerk of an ecclesiastical society a certificate of having joined himself to any other than the established denomination, was, "so long as he shall continue ordinarily to attend on the worship and ministry in the church or congregation to which he has chosen to belong," exempted from the payment of society taxes for the support of public worship or the ministry. And all churches and congregations of dissenters, so formed, were empowered to tax themselves for maintaining their ministers, building meeting-houses, etc.[9]

This—so thought Judge Swift—"levelled all distinctions, and placed all denominations of Christians equally under the protection of the law."[10] It was not, however, so favorably regarded by the dissenters. They complained that "when a person attends on public worship in *no* religious society," he should be taxed in the located society in which he lives. The located societies had a right by law to tax all within their limits who did not lodge the prescribed certificates, and this lodging of certificates—though it was considered by the general assembly as "nothing more than an act of the dissenter to inform the located society that he does not belong to them," was "deemed by some of the dissenters themselves, a mark of degradation" or confession of inferiority. While the law professed to secure equal rights and privileges to all denominations of Christians, it maintained, in fact, a distinction between the *located* or established and the *dissenting* societies. Moreover, it was objected, these were differences of opinion as to the *construction* of the law. "As it was always in the power of the inhabitants of the located societies, to try the legality of the certificates of dissent," dissenters had sometimes—as Judge Swift admits,—"been subjected to hard and rigorous

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[7] Col. Rec. (MSS.) vol. v., p. 587.
[8] Ibid., pp. 688, 704.
[9] Revised Statutes, 1808, p. 575.
[10] Swift's System (1795), i. 144.

usage. Courts and juries had usually been composed of what was considered the standing church, and they had frequently practised such quibbles and finesse with respect to the forms of certificates and the nature of dissenting congregations, as to defeat the benevolent intentions of the law."[2]

The well-known Baptist elder, John Leland, in a pamphlet published soon after the enactment of the "Certificate Law" of 1791, denounced it, as founded on the principle "that it is the duty of all men to support the gospel and worship of God," and that "human legislatures have the right to force them to do so." "The certificate that a dissenter produces to the society-clerk, must be signed by some officer of the dissenting church, and such church must be *protestant-christian;* for heathens, deists, Jews, and papists, are not indulged in the certificate law; all of *them*, as well as Turks, must therefore be taxed to the *standing order*, though they never go among them or know where the meeting-house is.[3]

Another ground of complaint was found in the peculiar favor manifested to Yale College, which, from its foundation in 1702, had been under the exclusive direction and control of the congregationalists. The special privileges secured to the college by charter, and the repeated grants which had been made to it by the general assembly, were regarded by the dissenters as inconsistent with the concession of "equal rights and privileges to Christians of every denomination."

The Baptists and Methodists had repeatedly addressed themselves to the general assembly, for relief from the operation of laws which they regarded as oppressive, and which subjected them to the compulsory payment of taxes for the support of any ministry—even of their own denomination. They demanded that "legal religion" should be abolished, and "the adulterous union of Church and State, forever dissolved."

The Episcopalians were seeking aid from the State for the endowment of their Academy in Cheshire and for the establishment of a fund for the support of a bishop. In the former object they had been partially successful, obtaining from the general assembly,

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[2] Ibid., 146, 147.

[3] "The Rights of Conscience inalienable, And therefore Religious Opinions not cognizable by Law; or, The High-flying Church-man, Stript of her Legal Robe, Appears a Yaho —By John Leland." *New London*, 1791 (8vo, p. 30). It was reprinted, with other tracts, by Charles Holt, New London, 1802, under the title of "The Connecticut Dissenter's Strong-Box: No. I. Containing The high-flying churchman, &c."

in October, 1802, license to raise 15,000 dollars by a *lottery*. An act incorporating trustees of a Bishop's Fund was granted in 1799, but this fund, derived from private contributions, grew so slowly that in May, 1817, it hardly exceeded 6000 dollars. When the charter of the Phœnix Bank at Hartford was granted (May, 1814), the State exacted a bonus of 50,000 dollars. The trustees of the Bishop's Fund alleged that a portion of this bonus had been appropriated by the petitioners for the bank, to the benefit of the fund, and they complained that it was unfairly withheld from the trustees, while an appropriation of 20,000 dollars, from the same bonus, was granted to Yale College.[4] Another ground of dissatisfaction was the repeated refusal of the legislature to confer the powers and privileges of a college, on the Academy at Cheshire, or to charter a new Episcopal College of Connecticut. It is not surprising that the federal majority—members of the "standing order," and warmly attached to the school of the prophets at New Haven—hesitated to contribute from the State treasury to the maintenance of a bishop or for the establishment of an episcopal rival to Yale. It is not more strange that the episcopalians, as a body, became associated with the republican party, from which they received assurances of support.[5]

In October, 1816, as a measure of conciliation and compromise, the general assembly passed "An Act for the support of Literature and Religion," by which the balances due the State from the United States, on account of disbursements for the general defence in the war with Great Britain, were appropriated as follows: one-third to the Presbyterian or Congregational societies, to be divided in proportion to their rate-lists, for the support of the gospel; one-seventh to the trustees of the Bishop's Fund, "for the use and benefit of the Episcopalian denomination of Christians;" one-eighth to the Baptists' trustees, and one-twelfth to the Methodists' trustees, for the use of their denominations respectively; one-seventh to Yale College; and the balance, a little

[4] Eleven years afterwards (1825), the State granted to the Trustees of the Bishop's Fund, $7,064. 88, in commutation of their claim on the Phœnix Bank bonus.

[5] The Rev. Dr. Shelton (rector of St. Paul's, Buffalo, N. Y.,) in a memoir of his father, the Rev. Philo Shelton, of Fairfield (1785-1825), thus states the position of the Episcopal church in Connecticut, in the contest which preceded the political revolution of 1817: "When the Episcopal Church petitioned the Legislature in vain, as she did for a series of years, for a charter to a college, he, with others of his brethren, *proposed a union with a political party, then in a minority,* to secure what he regarded a just right. And the first fruit of the union was the charter of Trinity [Washington] College,

more than one-sixth of the whole, to remain in the State treasury.[6] As might have been anticipated, this measure pleased nobody, but tended rather to promote than to diminish opposition to the established order in State and church. The federalists and Congregationalists felt that too much had been conceded. The minor sects thought the division unjust, and, even if the provisions of the act in their behalf had been more liberal, they could not, consistently with their past professions, approve the appropriation to the support of the ministry, of a fund originally raised by taxation. Some of the Methodists at first refused to receive their share of the fund. The Baptists' trustees did not accept theirs, till June, 1820. In February, 1818, the trustees of the Methodists—a majority of the board, it may be remarked, were federalists—voted that, though that denomination had not been granted their full proportion of the money to be distributed by the act, yet, not thinking it right that the appropriation should remain useless, they would receive it from the treasury. This action, however, was strongly censured by many members of the denomination in Connecticut.

In January, 1816, "a meeting of citizens from the various parts of the State" was held at New Haven, for the purpose of nominating a governor and lieutenant-governor, and to cement an alliance between the republicans and such of the federalists as were opposed to the "standing order" and were friends of "toleration and reform." The nomination of Oliver Wolcott for governor, and of Jonathan Ingersoll for lieutenant-governor, was unanimously agreed on, "as the one most likely to produce that concord and harmony among parties which have too long, and without any real diversity of interests, been disturbed, and

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Hartford. He was one of a small number of clergymen who decided on this measure, and were instrumental of carrying it into effect; and it resulted in a change in the politics of the State which has never yet been reversed."—Sprague's Annals of the Am. Pulpit (Episc.), v. 351.

[6] The amount received from the U. S., before Nov., 1817. was $61,500. This was apportioned as follows:

To Congregational Societies	$20,500.00
Trustees of Bishop's Fund	8,785.71
Baptists' Trustees	7,687.50
Methodists' Trustees	5,125.00
Yale College	8,785.71
Balance unappropriated	10,616.08

which every honest man must earnestly desire to see restored."[7]

Oliver Wolcott, in former days, had been a federal of the federals. He had opposed the re-nomination of John Adams because he believed that "we should never find ourselves in the straight road of federalism while Mr. Adams is president."[8] While secretary of the treasury, and after his resignation of that office in 1800, he had been charged by the anti-federals, not merely with mal-administration and evil counsel, but with downright crime, and, as he on one occasion complained, he had encountered some of "the most flagitious and profligate devices of party malice."[9] But retirement from political life and absence for fourteen years from Connecticut had given old-time resentments time to cool. "There were few men in this country"—as republican writers now truly averred— "who would more advantageously bear a scrutiny of character as to moral qualifications, than Oliver Wolcott." Moreover, "he was opposed to the Hartford convention; like Washington was a friend to the *Union*, a foe to rebellion; with mild means resisted bigotry, with a glowing heart favored Toleration";[10] and as, with all this, "he had for the last eight or ten years approved of the general system of measures adopted and pursued by the government of the United States,"[11] he was deemed an available candidate of the coalition. The *Mercury*— in which, fifteen years before, he had been accused of setting fire to the buildings of the War and Treasury departments for the purpose of destroying the evidence of his frauds and defalcation[1] —cordially supported his nomination, and challenged the federalists "to produce a single instance, throughout his whole life, of impurity of motives in the discharge of his public service."[2]

Jonathan Ingersoll, an eminent lawyer of New Haven, had been a member of the council, 1792-1798, and a judge of the superior court, 1798-1801, and from 1811 to 1816. He was a federalist, in good standing with his party, but his nomination as

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[7] Amer. Mercury (republ.), 27th Feb., 1816. The Hartford Times, 25th Feb., spoke of the new "American Toleration and Reform" ticket, as one "agreed upon with respect [inter alia] to the conciliation of political parties, the harmony of the different religious denominations, and subsidence of the spirit of intolerance."

[8] Ante, p. 19. [9] Admin. of Wash. and Adams, ii. 482.

[10] N. Haven Register, and Am. Mercury, 11th Feb., 1817.

[11] "Aristides," in Am. Mercury, 26th March, 1816.

[1] Am. Mercury, Feb. 5th and 25th, 1801. [2] Id., 25th March, 1816.

lieutenant-governor was made a condition of the support of the new ticket by Episcopalians. Judge Ingersoll was a prominent member of that church, and the senior trustee of the Bishop's Fund. "It was deemed expedient, by giving the Episcopalians a fair opportunity to unite with the republicans, to attempt to effect such a change in the government as should afford some prospect of satisfaction to their united demands."[3]

The new ticket—first called "American," then "American and Toleration"—was not successful in the spring election of 1816; but the diminished majority of the federal candidates foreshadowed the coming revolution. Judge Ingersoll, by the help of federal votes, was chosen lieutenant-governor, by a majority of 1,453. Mr. Wolcott received 10,170 votes, out of 21,759.

The next year, the same nominations, "adopted at a general meeting of the friends of toleration," at New Haven, in October, were again submitted to the freemen; and now, Oliver Wolcott was elected governor by a majority of about 600[4], over the federal incumbent, John Cotton Smith. Lieutenant-governor Ingersoll, receiving the votes of both parties, was re-elected without opposition, and in the house of representatives there was a decided "Toleration" majority. The council—chosen from the nominations made in October preceding—was still federal, and without its concurrence, the radical changes to which republicans and tolerationists were mutually pledged, could not be effected.

The first act passed by the general assembly of 1817, was one "securing equal rights, powers, and privileges, to Christians of every denomination in this State." It provided that any person, separating from any society or denomination of Christians to join any other, should, on lodging a certificate of the fact, with the *town clerk*, be exempted from taxation from any future expenses of the society from which he withdrew. Every society of Christians was authorized to lay taxes for the maintenance of minis-

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[3] "Aristides," 26th March, 1816, and "Episcopalian," in Am. Mercury, 12th March.

[4] The legal returns gave:

Wolcott,		13,655
Smith,	13,119	
Scattering,	202	13,321
Wolcott's majority		334

But the correction of some errors in the returns increased this majority—as the federalists conceded—to about 600.

ters, the support of public worship, for building meeting houses, &c., and all Christian societies were to "have and enjoy the same and equal powers, rights and privileges, to every effect, intent, and purpose, whatever."

Even this concession was not sufficiently explicit and broad to satisfy the minor sects; and the next year, another bill was introduced, for *more effectually* securing equal rights and privileges to all denominations. On the question of referring this bill to a committee, Mr. (and the Rev.) Daniel Burrows, of Hebron, said: "It was stated that the law of 1817 was designed to extend equal rights to all religious denominations; but it *did not change* the thing; it did not effect the object or answer the design of the aggrieved party. It contained no declaration which would enable *them* to have recourse to the same measures that were enjoyed by the standing order."[5]

In October, 1816, the complete success of the Toleration party was assured by placing *in nomination* their ticket for Assistants. In the general assembly, they had again a majority of nearly two to one. At this session, the obnoxious "Stand-up Law" was repealed. This law was enacted in October, 1801, to regulate the manner of voting in freemen's meetings. It directed that in all elections by ballot, the freemen should "lay their ballots on the lid" of the box, "and the presiding officer on being satisfied that the ballots given in are single, shall put them into the box," &c. And further, that when the freemen were to vote for persons to stand in *nomination* for *assistants* or *representatives* in *congress*, they were first to be seated, and when any name was proposed for nomination, those who would vote for the person so named, should signify it by *rising*. If the accommodations would not admit of seating all the freeman present, the vote might be taken "by holding up the hand." Every freeman was to be provided with a number of slips of paper "equal to the number which are by law to stand in nomination"; and, at each time of his voting, by rising or show of hand, he was to "*drop one of the said slips* of paper, that he may not be exposed through mistake to vote for more than the prescribed number."[6] This law—which deprived the freemen of the privilege of secret ballot—had become unpopular, even among the federalists. To the republicans and their

[5] Debates, in Conn. Courant.

[6] Rev. Statutes, 1808, pp. 251, 252.

"toleration" allies it was odious in the extreme.[7] It had been a favorite subject of animadversion, with their orators and party press. It was one of the few *real* grievances of which the freemen had to complain, and contributed, perhaps as much as any other, to bring about the political revolution of which began in 1817.

In April, 1818, the revolution was consummated, by the re-election of Wolcott and Ingersoll, the election of eight new assistants,[8] and an anti-federal majority in the house of representatives.

In this election, the question of a new Constitution was a recognized—in fact, the main issue. During the winter of 1817–18 and the following spring, town meetings had been held in many of the towns, for expression of the views of the freemen, and to instruct their representatives in the general assembly to vote for calling a convention to frame a constitution. The "American and Toleration Ticket" of 1816, and "Toleration and Reform Ticket" of 1817—this year appeared under the name of "*Constitution* and Reform." The necessity in a change in the form of civil government had been argued, with much ability, by writers in the leading republican newspapers, and in pamphlets which were liberally distributed throughout the State.[9] The *American Mercury*, in the first number of the new year, began the publication of a series of articles on "The Constitution," addressed "to the People of Connecticut," on the benefits to be anticipated from the proposed reform and to answer objections which were urged against it. The writer, in his first communication, admits that, in past years, "the minds of the community had seemed generally to revolt against opening the question, choosing rather to endure existing imperfections than to throw aside the present system,—lest a more perfect one might not be adopted." But now, it appeared that all such apprehensions were removed, and "the people were agreed, almost without dissension, that some changes were expedient to

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[7] The republicans ascribed the authorship of this law to Lieut. Governor (afterwards Governor) Treadwell. See "Aristides," on Conn. Politics, in the *American Mercury*, 12 March, 1816.

[8] Wm. Bristol, Elijah Boardmen, David Tomlinson, Sylvester Wells, John S. Peters, James Lanman, Enoch Burrows, and Peter Webb. Four of the old assistants were re-elected: Jona. Brace, Fred. Wolcott, Asa Chapman, and Elias Perkins.

[9] One of these, on "The Politics of Connecticut: by a Federal Republican" [George H. Richards, of New London], was received with much favor by the republicans, and widely circulated.

adopt our government to the principles of a more enlightened age than that in which it was formed, and to reconcile it with the institutions which surround us."

While the republicans and tolerationists were unanimous in support of the measure, the federalists were not united in opposition. In several towns, prominent members of the federal party concurred in the vote instructing their representatives, or avowed themselves in favor of a new constitution. The jealous rivalry between the two capitals—which dates from the union of the colonies—was not without its influence. The modern fiction of a "compact" by which the enjoyment of a state house and biennial election-parades was guaranteed to New Haven forever, does not appear to have yet gained even local credence; but it was an avowed purpose of the Tolerationists, to abolish the October session and provide for the annual meeting of the general assembly alternately at Hartford and New Haven, thereby placing the two capitals, as nearly as might be, on political equality. The prospect of gaining such an advantage of a rival, by remodeling the constitution, was an inducement which party ties were weak to resist. Many federalists of New Haven and its vicinity openly favored "Constitution and Reform," or were careful not to manifest their opposition.

At a town meeting in New Haven, Dec. 29, 1817, a resolution instructing the representatives "to use their interest and exertions that measures be immediately taken for forming a written constitution of civil government," introduced by Henry W. Edwards and advocated by Ralph I. Ingersoll and Isaac Mills, was passed "almost unanimously," and the *Register*, in publishing the fact, was "happy to add that many of the most respectable and candid of the Federalists have united with the Republicans."

Other considerations than those which were suggested by sectarian or local interests contributed to weaken federal opposition to the projected reform. Circumstances had brought prominently into notice the most serious defect of the old constitution and of the existing form of government—the omission to define or limit "the supreme power and authority of the State" which was vested in the general assembly without any reservation of *judicial* authority to the proper courts of law. The legislature had, from the settlement of the colony, been regarded as the court of ultimate resort in all matters, civil and criminal. It had for a

long time reserved to itself *sole* jurisdiction in equity, and had not yet delegated to the courts the power of granting relief in equity, where the amount in controversy exceeded 5,335 dollars[10]. It might call to account any court or magistrate, and, for cause found, fine, displace, or punish them, at discretion; and its power to grant pardons, suspensions, and reprieves, in capital or other criminal cases, was unquestioned. It was natural, therefore, that —the occasional remonstrances of the bench notwithstanding— the opinion should be maintained by many, and especially by those who, for the time, were invested by popular election with this unrestricted power—that "the assembly, by virtue of their supreme authority, may superintend and overlook all inferior jurisdictions, and may proceed, upon the principles of abstract right and perfect justice, to grant relief to the people in all instances in which they have sustained wrong in any possible manner whatever."[11] And here was danger of the very evil against which the founders of Connecticut sought to guard themselves and their posterity, in framing the constitution of 1639—the "way which leads directly to tyranny, and so to confusion"— for, as Hooker believed—when, "in the matter which is referred to the judge, the sentence should lie in his breast, or be left to his discretion, according to which he should go, is a course which wants both safety and warrant."[12] Judge Swift, in 1795, though he characterized those who pretended that Connecticut had no constitution, as "visionary theorists," did not overlook "a question of great nicety and difficulty [which] arises respecting the constitutional jurisdiction of the general assembly, in controversies of a private and adversary nature." Admitting that the assembly "possessed the power of doing, and directing, whatever they shall think to be for the good of the community," he maintained that "it ought to be deemed an inviolable maxim, that *when proper courts of law are constituted, the legislature are divested of all judicial authority.*"[1] But in the absence of any distribution of powers, by the organic law, it was not easy to effect the separation of the law-dispensing from the law-making power.

In 1815, the action of the general assembly in a case in which Judge Swift (then Chief Judge) was nearly concerned, attracted

[10] Rev. Statutes, 1808, p. 550. The amount was fixed as the equivalent of 1600 pounds, the limit of jurisdiction by the revision of 1784, p. 192.

[11] Swift's System (1795), i. 75. [12] Ante, p. 7. [1] System, i. 74.

general attention, and gave occasion to the publication of some excellent "Observations on the constitutional power of the Legislature to interfere with the Judiciary in the administration of justice."[2] At the October session, the general assembly annulled the judgment and set aside the sentence pronounced against a murderer convicted at a special session of the superior court, at Middletown—on the ground that the court was irregularly and illegally convened, and that the order for summoning the grand jury had been illegally issued. The chief judge, who presided at the trial, felt himself constrained to appeal to the public in vindication of his judicial character, against the implied censure of the assembly. "It is true," he observes, "*we have no written constitution*; our constitution is make up of usages and customs: but it has been always understood that there were certain fundamental axioms which were to be held sacred and inviolable, and which were the basis on which rested the rights of the people. . . . The government of the State, like most others, is divided into three branches, the executive, the legislative, and the judiciary. These are co-ordinate and independent of each other, and the powers of one should never be exercised by the other. . . . It ought to be holden as a fundamental axiom, that *the Legislature should never encroach on the jurisdiction of the Judiciary*, nor assume the province of interfering in private rights, nor of overhaling the decisions of courts of law." If this principle should be disregarded, "the Legislature would become one great arbitration, that would ingulf all the courts of law, and *sovereign discretion* would be the only rule of decision—a state of things *equally favorable to lawyers and criminals*."[3]

"Peter Lung's case" gave a new argument to the advocates of constitutional reform, and the Chief Judge's "Vindication" was well calculated to exert influence in drawing a portion of the more conservative federalists to the support of the republican and toleration ticket in the elections of the two following years.

The election of 1818 was regarded by all parties as decisive—as to the change not only of the policy, but of the frame of government. When the assembly met in May,[4] it was well under-

[2] "A Vindication of the calling of the Special Superior Court, at Middletown . . . for the trial of Peter Lung . . . with Observations" &c. Windham, 1816, 8vo.

[3] A Vindication, &c., pp. 40–42.

[4] Gideon Tomlinson, of Fairfield, was chosen Speaker; Elisha Phelps, of Simsbury, and Samuel A. Foot, of Cheshire, clerks.

stood that its principal business was to provide for calling a Constitutional Convention. Governor Wolcott, in his speech to the two houses, at the opening of the session, presented this subject to their consideration, with characteristic fairness, caution, and good sense:

"As a portion of the people have expressed a desire that the form of civil government in this State should be revised, this highly interesting subject will probably engage your deliberations. I presume that it will not be proposed by any one to impair our institutions, or to abridge any of the rights and privileges of the people. The State of Connecticut, as at present constituted, is, in my opinion, the most venerable and precious monument of republican government, existing among men. With the exception of less than two years from its first settlement, embracing a period nearly coeval with the revival of civil and religious liberty in Europe, all the powers of government have been directly derived from the people. The governors and counsellors have been *annually*, and the representatives *semi-annually* elected by the freemen, who have always constituted the great body of the people. Nor has the manifestation of the powers of the freemen been confined to the elections. They have ever been accustomed to public consultations and deliberations of intricacy and importance. Their meetings have been generally conducted with the same order and decorum as those of this assembly. No instance is known in which a single life has been lost, in consequence of any mob, tumult, or popular commotion. The support of religion, elementary schools, paupers, public roads and bridges—comprising about eight-tenths of the public expenses—has been constantly derived from taxes imposed by the votes of the people; and the most interesting regulations of our police have ever been and still are enforced by officers deriving their powers from annual popular appointments.

"Prior to the establishment of American independence, the Charter of Charles the Second of England was viewed as the palladium of the liberties of Connecticut. It surely merited all the attachment it received; for whatever had been the claims of the British crown or nation, to jurisdiction or territory, they were all, with nominal exceptions, surrendered to our ancestors, by that instrument; especially, there was expressly ceded to them and their posterity, the inestimable privilege of being governed by municipal regulations framed and executed by rulers of their own appointment. The revolutionary war of course occasioned no change or dissolution of our social system.

"Considered merely as an instrument defining the powers and duties of magistrates and rulers, the Charter may justly be considered as unprovisional and imperfect; yet it ought to be recollected that what is now its

greatest defect was formerly a pre-eminent advantage, it being then highly important to the people to acquire the greatest latitude of authority, with an exemption from British interference and control.

"If I correctly comprehend the wishes which have been expressed by a portion of our fellow citizens, they are now desirous, as the sources of apprehension from external causes are at present happily closed, that the Legislative, Executive, and Judicial authorities of their own government may be more precisely defined and limited, and the rights of the people declared and acknowledged. It is your province to dispose of this important subject, in such manner as will best promote general satisfaction and tranquillity."

The House of Representatives raised a select committee of five, "on so much of the Governor's Message as relates to a revision of the form of civil government," and Messrs. Orange Merwin of New Milford, David Plant of Stratford, Shubael Griswold of East Hartford, Nathan Pendleton of North Stonington, and Nathaniel Griffing of Guilford were appointed as such committee. The Council passed a resolution appointing the Hon. Elijah Boardman (Rep.) and Hon. William Bristol (Tol.) with such gentlemen as might be designated by the house, as a *joint* committee. —and sent it down for concurrence. The House refused to consider it, and ordered it to lie on the table, until the committee they had already appointed should report.

The House committee presented the following report:

"General Assembly, May Session, 1818.

"The Committee appointed on that part of His Excellency the Governor's Speech which relates to a revision of the form of Civil Government in this State, Report:

That in conducting their minds to a result on this deeply important subject. your committee have deemed no small deference due to public feeling and opinion. From resolutions adopted in many towns, and petitions from a respectable number of our fellow citizens in others, together with information derived from various other sources, they can entertain no doubt of a general manifestation of a desire for a revision and reformation of the structure of our civil government and the establishment of a Constitutional Compact.

As all just political power is founded on the authority of the people, and instituted for their safety and happiness, a free and deliberate expression of the public will as to any modification of that power is eminently entitled to regard,—a regard strongly enforced by the consideration, that no government, whatever in other respects may be its character, can be

expected to produce the best effects, to which the governed are not attached by affection and respect.

Although the political happiness which has been enjoyed under the laws and government of this State affords cause for grateful acknowledgment, yet, in the opinion of your committee, this happiness is to be ascribed to other causes, rather than to any peculiar intrinsic excellence in the form and character of the government itself. Destitute of fundamental laws defining and limiting the powers of the Legislature, the citizen has no security against encroachments on his most sacred rights, and violations of the first principles of a free government, except what may be found in the dependence of that body on the frequency of popular elections. Yet even these boasted barriers against arbitrary power may at any time be prostrated by the Legislative will. What sufficient security, then, have the people against the most extravagant exercise of power by such a Legislature, always liable to be impelled by passion, caprice, and party spirit, or to be influenced by intrigue or misinformation? There is none to be found in the theory of our government, and experience, to which we, with regret, recur, may teach us that there is none elsewhere.

The organization of the different branches of government, the separation of their powers, the tenure of office, the elective franchise, liberty of speech and of the press, freedom of conscience, trial by jury,—rights which relate to these deeply interesting subjects ought not to be suffered to rest on the frail foundation of legislative will or discretion.

Regarding the present as a period peculiarly auspicious for carrying into effect the wishes of our fellow-citizens on this important subject,—a period in a great measure happily free from the agitation and collision of party spirit, and in which we have the advantage of the instruction which experience has alike derived from the excellencies and faults of the Constitutions of our sister States, your committee beg leave to recommend the adoption of the accompanying Resolution.

Per order,

ORANGE MERWIN, *Chairman.*

The Resolution, as subsequently completed, by filling the blanks left by the Committee, was as follows :

Resolved by this Assembly. That it be, and it is hereby recommended to the people of this State, who are qualified to vote in Town or Freemen's Meetings, to assemble in their respective towns, on the *fourth day of July*[1] next at 9 o'clock in the morning, at their usual place of holding Town or Freemens Meetings, and, after having chosen their presiding officer, then and there to elect, by ballot, as many delegates as said towns now choose representatives to the General Assembly, who shall meet in con-

[1] The words printed in *italics* were inserted by the House.

vention at the State House in Hartford, on the 4th Wednesday of August next, and when so convened shall, if it be by them deemed expedient, proceed to the formation of a Constitution of Civil Government, for the people of this State: a copy of which Constitution, when so formed, shall be by said convention forthwith transmitted to each town clerk in this State, to be by him submitted to the qualified voters in the town to which he belongs, assembled at such time as said convention may designate; which time shall not be less than one week, nor more than three weeks from the rising of said convention, for their approbation and ratification: and said Constitution, when ratified and approved, *by such majority of said qualified voters convened as aforesaid, as shall be directed by said convention*,[1] shall be and remain the Supreme Law of this State.

And be it further resolved, That it shall be the duty of the Selectmen in the several towns aforesaid, to give legal notice of the time, place, and object of holding town meetings as aforesaid, whether for the election of Delegates, or for the ratification of the Constitution: and the votes in the meetings for the choice of delegates shall be counted, and certificates of election shall be supplied to said delegates, in the same manner as is now practised in the election of representatives to the General Assembly. And the presiding officer chosen by said meetings for ratifying the Constitution as aforesaid, shall, as soon as may be, transmit by the representatives of their respective towns, to the General Assembly next after such meetings are held, a certified statement of the number of votes given in said towns, on the question of ratifying said Constitution, both affirmative and negative, and a like statement said presiding officer shall also lodge with the town clerks of their respective towns, which votes shall be returned to said assembly, and counted in the same manner, as is by law provided for returning and counting the votes for Governor of this State.

And be it further resolved, That two-thirds of the whole number of delegates so elected, shall form a quorum, and said convention shall choose a president and clerk; and the clerk of said convention having been sworn to a faithful discharge of the duties of his office, shall proceed to administer to the president and members thereof, the following oath or affirmation, viz:

"You, being chosen delegates to this convention for the purpose, if need be, of framing and devising a Constitution of Civil Government for the people of the State of Connecticut, do solemnly swear (or affirm) that you will faithfully discharge the trust confided to you."

And said delegates shall be allowed the same fees for travel and attendance on said convention, as is now by law allowed to the Representatives to the General Assembly.

Be it further resolved, That all such persons as are, or may, at the time of either of said meetings, be qualified by law, and duly certified as

such, by the lawful board for said purpose, to be made freemen of this State, may then and there be admitted and sworn, and shall be authorized to act as such, in the business of said meetings.

An unsuccessful attempt was made to amend the resolution—on motion of Samuel A. Foot—by substituting, in the sixth line, the words "one delegate," for, "as many delegates as said towns now choose representatives to the general assembly." This was opposed by Mr. Channing of New London and Mr. Austin of New Hartford, and was rejected.

To a motion to fill the first blank, by fixing the "fourth day of July" as the time of holding the freemen's meetings for the choice of delegates, Mr. Griswold of East Hartford (Fed.) objected, because this was a holiday, and moreover, the fourth of July happened this year to fall on a Saturday, when it was inconvenient to the freemen to attend town meetings. Col. John McClellan, of Woodstock (Fed.) "could not agree with the gentleman from East Hartford; he knew the fourth of July was a *merry day*, but he thought, if the people began *early in the morning*, they would be able to get through *before they were disqualified to vote.*"[2]

On filling the remaining blank—thereby determining what majority should be required for ratification—there was more diversity of opinion and longer debate. Mr. John Alsop, of Middletown, proposed "two-thirds of the whole number of *towns*." Mr. James Stevens, of Stamford, proposed "three fifths" instead of "two-thirds."[3] Mr. Austin, of New Hartford, objected to both propositions, because "two-thirds of the whole number of *towns* might not contain one-fourth of the *people*." Mr. Calvin Butler, of Plymouth, wished to substitute "four-fifths." Mr. Foot preferred to leave this question to be decided by the convention itself. Mr. Jonathan W. Edwards, of Hartford, moved to fill the blank with the words, "which, when ratified by *three-fifths* of the legal voters of this State, assembled in legal town meeting warned for that purpose, shall become the Constitution and supreme law of the land," and by vote of the house the blank was so filled. But the bill having been returned to the committee for revision, they reported it with an amendment requiring only a "majority

[2] Report of debates, in Conn. Courant, June 9th.

[3] Had either proposition been adopted the Constitution would not have been ratified. It received in October a majority of the votes in only *fifty-nine* of the one hundred and twenty towns.

of the freemen," and this amendment was accepted by the house —by a bare majority (yeas, 81; nays, 80). Mr. Foot then offered another amendment, providing for ratification "by such majority of the qualified voters as *shall be directed by said convention*," and this was finally adopted.

The resolution was supported in debate, by Mr. Plant of Stratford, Mr. Foot of Cheshire, and Mr. Burrows of Hebron, and opposed by Mr. Griswold of East Hartford, and Jonathan W. Edwards of Hartford. An abstract of Mr. Edwards' speech, from a newspaper report,[4] may appropriately be inserted here, as presenting the views of the federal minority and the grounds of their opposition to a change in the form of civil government:

"Mr. JONA. W. EDWARDS, of Hartford, said: I do not rise, Mr. Speaker, at this late hour, under the expectation that any observations which I may make will change the vote of a single member of this house; but as I deem it my duty to give my vote on this bill, I shall not hesitate to avow the reasons by which I am influenced.

"We are blessed with a *Constitution*, sir, and if it is not a written one, it is one under which the citizens of Connecticut have enjoyed more peace, more happiness, and more freedom, than could ever be boasted of by any other people under any other government. Our form of civil government has remained from 1662, almost without a change. It was in its first outlines formed by all the free male inhabitants of the three towns of Windsor, Hartford, and Wethersfield. Afterwards the Charter of Charles was drawn, in this town, made as we wished, and sent to England for ratification. It rendered us independent, and accordingly we were governed solely by laws made by ourselves. The *royal* and *proprietary* governments were dissolved by the revolution—but ours, a *charter* government, remained unaltered. The first charter was drawn up, perhaps, about the spot where I now stand. It was drawn up, sir, at the request of the *people*. It was not a charter of King Charles, but a charter of the people, and under it we have always exercised all the powers of government, and have enjoyed as much freedom as has fallen to the lot of any other community. The assent of the people, by long usage and acquiescence, has been as fully expressed, as if the votes of the people had been taken, and the assent is *less equivocally* expressed than even by a vote. What advantage, then, shall we gain, sir, by a written Constitution? A written Constitution appears to me to be of no value, except in two cases: First, where a people have been holden in servitude, and, have obtained their freedom from their sovereigns. All the people of Europe have

[4] Conn. Courant, June 9th.

emerged from a state of vassalage; they were once the dependents of their military chieftains, and the privileges which they now enjoy were extorted by degrees from their lords, and holden by charter. To such a people a written constitution is highly important. The other case in which it is proper to have a written constitution, is where several sovereign states are united under one general and federal government. It is indispensably necessary to have the limits of the general and of the particular government accurately defined by a written constitution. The State of Connecticut is not composed of inferior sovereignties. As a state, it is one and indivisible. Neither do the people hold their liberties from the grant or license of any lord or sovereign; they are of themselves free, sovereign, and independent; they can never be *more* free; they cannot even *form* a Constitution, without relinquishing some part of their freedom—the freedom, at least, of changing their laws whenever they are dissatisfied with their operation. They now choose one branch of the legislature half-yearly, and the other annually, so that no law will probably continue in force more than six months, and certainly it cannot more than one year, before it will be abolished, if the people *wish* it. The *people*, therefore, do not ask for a Constitution—and those who are now in power may be satisfied with uncontrolled dominion. They surely cannot wish to part with the power of making wholesome laws and regulations; and they will not admit that the people are in any danger from their usurpations. I think, sir, we have nothing to gain, and have much to hazard, by an innovation. If, however, we *must* have a Constitution, I would postpone it till the next session of the Legislature, and if we *must* then form a Constitution, we ought all to join and make it as perfect as possible."

The resolution was adopted June 2d, and the Assembly adjourned, on the 6th.

The result of the town elections on the fourth of July assured a considerable majority to the Tolerationists, in the convention. Both parties had placed in nomination their strongest men, and although, in a few towns, sectarian resentment or party spirit prevented the election of some whose talents and experience qualified them to take a prominent part in the work of re-construction, yet the federalists did not hesitate to admit, that "the freemen seemed to have been in a great measure impressed with the importance of the subject, by selecting, for the most part, judicious and intelligent men, instead of furious and bitter partisans,"—including "many who had long possessed and deserved the confidence of their fellow-citizens." And all parties concurred in

expressions of confidence "that the wisdom, patriotism, and experience of the members of this Convention, would enable them faithfully and satisfactorily to discharge the great and responsible duties of their station—to frame a Constitution that will be acceptable to every class of freemen."[5]

Such confidence was well-grounded. Seldom, if ever, has any body of men so respectable, by the character, talents, political experience, and good sense of its members, been convened in Connecticut.

The federal leaders accepted the coming constitution, as inevitable, and, refraining from any parade of hopeless opposition, directed their efforts to preserve as much as possible of the established institutions of Connecticut under a new form—and distribution of the powers—of government. "Federalists," they said, "are far enough from being opposed to a constitution, and instead of being 'enemies to it' [as had been charged upon them], will be heartily glad to co-operate with all honest republicans, to form such a constitution of civil government as will secure to the freemen of Connecticut 'equal rights' and a continuance of those numerous privileges which have so long distinguished the people of this State."[6]

On Wednesday, August 26th, the Convention met, in the Hall of Representatives at Hartford. It was called to order by the Hon. Jesse Root of Coventry, the oldest delegate present, and proceeded to the choice of a clerk. Some discussion was had, as to the propriety of conferring that office on any person who was not a member of the Convention. Thomas Day, the secretary of the State, was the leading federal candidate. On the first ballot, the vote stood: James Lanman, 37; Thomas Day, 35; Gideon Tomlinson, 26; Ralph I. Ingersoll, 21; Timothy Pitkin, 18; and 22 scattering. Mr. Lanman was chosen, on the third ballot.[7]

Governor Wolcott, who came as one of the delegates from Litchfield, was elected president of the Convention.

In the afternoon of the same day, on motion of Mr. James Stevens, it was

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[5] Conn. Courant, July 14, 1818. The writer estimates the strength of parties in the Convention at 105 Democrats, 95 Federalists.

[6] Conn. Courant, Juue 21.

[7] Ibid.; Journal of Convention.

"*Resolved*, That this Convention do deem it expedient to proceed at this time to form a Constitution of Civil Government for the people of this State."

The next morning, on motion of Mr. Robert Fairchild, it was resolved to appoint, by ballot, a committee of three members from each county, to draft a Constitution and report the same to the Convention. This committee was constituted as follows:

For the county of—

Hartford:	Sylvester Wells,	of Hartford.
	Timothy Pitkin,	of Farmington.
	Elisha Phelps,	of Simsbury.
New Haven:	William Bristol,	of New Haven.
	Nathan Smith,	"
	William Todd,	of Guilford.
New London:	Moses Warren,	of Lyme.
	Amasa Learned,	of New London.
	James Lanman,	of Norwich.
Fairfield:	Pierpont Edwards,	of Stratford.
	James Stevens,	of Stamford.
	Gideon Tomlinson,	of Fairfield.
Windham:	Peter Webb,	of Windham.
	George Larned,	of Thompson.
	Edmund Freeman,	of Mansfield.
Litchfield:	John Welch,	of Litchfield.
	Augustus Pettibone,	of Norfolk.
	Orange Merwin,	of New Milford.
Middlesex:	Joshua Stow,	of Middletown.
	William Hungerford,	of East Haddam.
	Thomas Lyman,	of Durham.
Tolland:	Daniel Burrows,	of Hebron.
	Asa Willey,	of Ellington.
	John S. Peters,	of Hebron.

More than half the members of this committee had already attained honorable distinction in professional or public life. Others, not yet so well known to the people, were soon to be called to important trusts and to receive the highest honors in the gift of the State. Pierpont Edwards—who was chosen chairman—was regarded by the federalists as the contriver of the coalition by which democracy came into power under the flag of "toleration". He still held the office of judge of the U. S. district court, to which he was appointed by Mr. Jefferson. He and Mr. Amasa Learned had been members of the convention

which, thirty years before, ratified the constitution of the United States. Five other delegates to the convention of 1788, were in the convention of 1818, namely, Jesse Root, John Treadwell, Stephen Mix Mitchell, Aaron Austin, and Lemuel Sanford. Five members of the committee (Messrs. Bristol, Wells, Peters, Lanman, and Webb,) were assistants. Three (Messrs. Pitkin, Edwards, and Learned) had been representatives in congress, and five others (Messrs. Phelps, Stevens, Tomlinson, Merwin, and Burrows) were afterwards elected to that office. Gideon Tomlinson and John S. Peters became, in turn, governors of the State, and James Lanman, Nathan Smith, and Tomlinson, senators of the United States.

Considering the hostility to Yale College which had been manifested by some of the republicans and the jealousy with which its relation to the State was regarded by dissenters from the established order, it is remarkable that so many alumni of Yale were chosen delegates to the convention, and that twelve of these were placed on the committee (of twenty-four) to draft a constitution.[8]

Five members of the committee were taken from the federal minority,—Messrs. Pitkin, Todd, G. Larned, Pettibone, and Willey. Of these, Mr. Pitkin had been the most prominent in his party, and had the largest experience in public affairs. He had represented his town in twenty sessions of the general assembly, had been five times speaker of the house, and since 1805 a representative in congress. Nathan Smith, of New Haven, though a federalist by conviction and affinity (his brother, Judge Nathaniel, was a delegate to the Hartford Convention of 1814), was now —as an episcopalian, a trustee to the Bishop's Fund, and the agent of his church to obtain an appropriation from the State— associated with the republicans for "toleration and reform."

Among the delegates to the convention at large, were three honored chiefs of federalism and pillars of the established order; the venerable ex-chief-judges, Jesse Root (now in his eighty-second year) and Stephen Mix Mitchell (in his seventy-fifth), and

[8] Hon. Nathan Smith, who received an honorary degree of A. M. in 1808, is included in this number. Dr. John S. Peters was a fellow of the Connecticut Medical Society, but did not receive from Yale the degree of M. D., till after the meeting of the convention. Two members of the committee, Messrs. Larned and Freeman, were graduates of Brown University. Thirty-nine delegates to the convention were alumni or honoraries of Yale. William Hungerford, of the class of 1809, and Thomas Lyman, of 1810, were the two youngest graduates on the committee.

ex-governor Treadwell (in his seventy-third). Gen. Nathaniel Terry, of Hartford, divided with Gov. Treadwell the leadership of the party in the convention. The Hon. Aaron Austin of New Hartford, another federal delegate, had sat with the assistants at the council-board for nearly a quarter of a century, till displaced by the revolution of 1818.[9] The Hon. Wm. Perkins of Ashford, Col. Shubael Griswold of East Hartford, Gen. Levi Lusk of Wethersfield, the Rev. Aaron Church of Hartland, Henry Terry Esq., of Enfield, Col. John McClellan of Woodstock, were well known as federalists and friends to the established order.

On the side of Toleration and Reform, prominent among the original republicans and their recognized leader, was Alexander Wolcott, of Middletown, a Jeffersonian democrat of the most pronounced type, who, "more than any other individual, deserves to be considered as the father and founder of the Jeffersonian school of politicsin this State."[10] The Rev. Asahel Morse (Baptist) of Suffield, the sometime Rev. Daniel Burrows (Methodist) of Hebron, Joshua Stow of Middletown—whose misadventure with the republican circular in 1806, supplied the federalists with some capital and gave his "saddle bags" a place in political history,[1]—Gen. Joshua King of Ridgefield, David Tomlinson of Oxford, one of the new Toleration councillors, Christopher

[9] His town gave only 34 votes for—to 156 against—the Constitution, in October.

[10] Hon. John M. Niles; quoted in Stiles's History of Windsor, p. 834. The federalists of 1800 to 1817, though they would not have hesitated to concede this position to the "State Manager" of his party, would hardly have accepted, without dissent, Mr. Niles' eulogy of Alex. Wolcott, as a man who, "always frank in his purposes, was equally direct in his means, despising chicanery and artifice, the constant resource of feeble minds."

[1] "Joshua Stow, whom the State Manager [Wolcott] had appointed County Manager, lost his saddle bags filled with copies of the general orders. They fell into the hands of gentlemen who had no interest to promote, by secrecy, and thus they were published in the federal papers."—*The Sixth of August*, or *the Litchfield Festival*, [Hartford] 1806, p. 11.

"These men have reduced their plan to a system, and they are completely organized and officered. This is fully evidenced, by a circular letter, from their Chief Manager. This letter was a business of secrecy, but providentially discovered; it was safely committed by the post, to the portmanteau on the horse; but the horse, like Absalom's Ass, despised his burden, and frighted at the contents, broke his fast and ran, till the letter was dislodged in the street. Here were peremptory, yea, sovereign orders given to every town manager," &c. "What friend to his country can read the Manager's letter without alarm? If so, he must have less feeling than the horse, who generously communicated the contents to the public."—*The Two Brothers: a Dialogue.* Hartford, 1806. p. 12.

Manwaring, of New London, were republicans such as partisan speakers of our time are wont to honor as the "old war horses" of democracy. Several of the most distinguished members of the party—besides those already mentioned—were on the drafting committee. Besides Dr. Sylvester Wells and Dr. John S. Peters, (both members of that committee) there were in the convention at least a dozen physicians, nearly all on the toleration side: Drs. Shelton of Huntington, Perry of Woodbury, Turner of Norwich, Lacey of Brookfield, Jehiel Williams of New Milford, and others: Drs. Bela Farnham of East Haven, and S. Everest of Canton were with the federalists.

Mr. Lanman having been placed on the drafting committee, it became necessary to provide an assistant clerk for the convention, and Robert Fairchild was chosen.

On Friday, Aug. 28th, the committee, by their chairman, made a partial report, submitted a Preamble, and a Bill of Rights, being Article I. of the Constitution. The discussion which ensued —unimportant in itself—indicated the result at which the convention, constituted as it was, must almost of necessity arrive. It was evident that the new constitution was not to be fashioned as an engine or a platform of party. The tolerationists—many of whom were drawn from the federal ranks—would accept the *republicanism* of their allies, but stopped short of pure *democracy*. All that was vital in the first constitution and the charter, was to be preserved in the new frame of government. "The great and essential principles of liberty and free government" would be recognized and established, but the liberty must be enjoyed under the restraints of established *law*.

Gov. Treadwell, for the old federalists, and Alex. Wolcott, for the democrats, opposed the incorporation of any bill of rights in the constitution. The former argued that, "such a declaration of rights might be proper and expedient, or even necessary, if we had to contend with a tyrant, or an aristocracy disposed to wrest from the people their rights,—but it was well known, that all power is vested in the *people* and exercised by a government appointed by the people. Was it then necessary to make certain regulations for that government which should be *unalterable*?"[1]

[1] Debates in Conn. Courant. Gov. Treadwell's argument is the same which Alex. Hamilton presented in The Federalist, No. LXXXIV. (Dawson's ed., p. 598, ff.).

Mr. Wolcott objected to such a bill, because it circumscribed the powers of the general assembly, and offered specific objections to several clauses.

When the fourth section—"no preference shall be given by law to any religious sect or mode of worship"—was under discussion, the Rev. Asahel Morse offered the following substitute:

"That rights of conscience are inalienable; that all persons have a natural and indefeasible right to worship Almighty God according to their own consciences; and no person shall be compelled to attend any place of worship, or contribute to the support of any minister, contrary to his own choice."

The substitute was opposed by Mr. Pitkin and Gov. Treadwell, (feds.) and by P. Edwards (repub.), and was rejected. A motion was afterwards made, to amend by adding the last clause of Mr. Morse's proposed substitute. This also was rejected. On the motion of Gov. Treadwell—opposed by Alex. Wolcott, but sustained by Pierpont Edwards and Nathan Smith,—the word "Christian" was substituted for "religious." With this amendment the section was approved and adopted, notwithstanding the opposition of Messrs. Wolcott, Burrows, and Joshua Stow.[2]

The second, third, and fourth articles were reported by the committee on Tuesday, September 1.

Their final report, comprising Articles VII. to XI. inclusive, was presented on Friday, September 4th.

Each article was considered by the convention—first, by sections; then, after discussion and amendment of the several sections, the whole article was again open to amendment before the question was taken on its adoption. And when the several Articles had been, in turn, approved, the whole instrument, having been printed as amended, was again subjected to revision and amendment before receiving the final approval of the convention.

The seventh Article—"Of Religion"—was the subject of protracted and lively debate. The federalists contested its passage, at every point, and succeeded in modifying, in important particulars, the draft of the committee, but they could not prevent the complete severance of church from state, the constitutional guaranty of the rights of conscience, or the recognition of the absolute equality, before the law, of all Christian denominations.

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[2] Debates, in *Conn. Courant*, and Journal of the Convention.

To the first clause, as reported: "It being the right *and duty* of all men to worship the Supreme Being, the great Creator and Preserver of the Universe, in the mode most consistent with the dictates of their consciences"—Gov. Treadwell objected, that "conscience may be perverted, and man may think it his duty to worship his Creator by image, or as the Greeks and Romans did; and though he would *tolerate* all modes of worship, he would not recognize it in the Constitution, as the *duty* of a person to worship as the heathen do:" and Mr. Tomlinson subsequently moved to amend this clause to the shape in which it now stands ("the duty of all men to worship . . . . . and their right to render that worship," &c.) Gov. Treadwell also objected, that this clause "goes to dissolve all ecclesiastical societies in this State,"—and this was doubtless the intent of its framers. Mr. Stow thought, "if this section is altered *in any way*, it will curtail the great principles for which we contend."[3] The committee's draft was supported, in debate, by Alex. Wolcott, Mr. Tomlinson, Daniel Burrows, Pierpont Edwards, Messrs. Waldo, Hart, Stevens, and Lanman, and opposed by Gov. Treadwell, Nathaniel Terry, and Timo. Pitkin. The first section was adopted by a vote of 103 to 86, and a motion by Mr. Pitkin to strike out the whole of the second section was rejected by 105 to 84[4]. These votes indicate, nearly, the relative strength of parties in the convention. On the final revision of the constitution, Mr. Terry offered two amendments to the first section—the effect of which was to continue the old ecclesiastical societies and to secure their legal rights and privileges as corporate bodies: and these amendments were adopted by the convention, without a call of the yeas and nays.[5]

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[3] This article (as I was informed by the late Mr. Hungerford) was assigned by the drafting committee to Messrs. Gideon Tomlinson and Joshua Stow. Its first clause, as reported, seems to have been taken, with slight change of language, from Gov. Wolcott's speech to the general assembly in May, 1817: "It is the right and duty of every man publicly and privately to worship and adore the Supreme Creator and Preserver of the Universe, in the manner most agreeable to the dictates of his own conscience." The statement has been repeatedly made, by writers whose authority is entitled to respect, that "the Article on Religious Liberty in the Constitution was drawn up by the pen of Rev. Asahel Morse," a Baptist minister in Suffield, who was a delegate to the Convention. This is manifestly incorrect—unless Mr. Morse was the draftsman of the governor's speech in 1817. As is mentioned above, Mr. Morse *offered* a substitute for the fourth section of the bill of rights, but this was rejected.

[4] Debates in Conn. Courant, Sept. 22d; and Journal, pp. 49–54.

[5] Journal, p. 67.

On Tuesday, September 15th, "the draft of the Constitution, as amended and approved when read by sections, was read through for the last time before the final question of acceptance or rejection. The Constitution was then accepted and approved by yeas and nays,—Yeas, 134; Nays, 61."

The names of Nathaniel Terry, Judge Mitchell, William Todd, John McClellan, and other prominent federalists, are found among the yeas; while those of Alex. Wolcott, James Stevens, and Robert Fairchild are with the nays.

After the vote was taken, a resolution, offered by Gideon Tomlinson, was passed by the convention, directing that the engrossed copy of the Constitution should be signed by the president and countersigned by the clerks, and deposited in the office of the Secretary of the State; that seven hundred copies should be distributed by the Secretary, to the several towns; "and that the number required to approve and ratify said constitution, be a majority of the qualified voters present and voting" at the town meetings to be held on the first Monday in October, agreeably to the Resolution of the General Assembly by which the convention was called.

Unsuccessful attempts to amend the last clause of this resolution, were made, by motions to substitute, for the majority requisite to ratification, three-fifths,—four-sevenths,—and five-ninths, of the number of votes given.

The engrossed copy of the Constitution having been signed, by the president and clerks, and delivered to the Secretary, on Wednesday morning, September 16th, the Convention adjourned, after a session of three weeks.

Fortunately, for the best interests of the State, the Constitution now submitted to the votes of the people, was not altogether such as either federalists or republicans wished to make it. In all its more important features, it was the result of compromise between radical democracy and the conservative federalism which held to old institutions, to established order, and to the "steady habits" which had given a name and character to Connecticut. Moderate men, of all parties, were content with the work of the convention. To the republicans, generally, the overthrow of "charter government" was a triumph—even though the reforms to be effected thereby were less sweeping than they had hoped to make them. The so-called toleration

party had gained the ends at which they professed to aim; in the guaranty of perfect religious liberty and the enjoyment of "the same and equal powers, rights, and privileges" by all denominations of Christians. Jeffersonian democrats of the old school were not so well satisfied. Alexander Wolcott, as we have seen, voted against the amended draft. "The deliberations and conclusions of a majority of the convention were not such as to commend themselves to the enlarged comprehension, the progressive republican mind, and high expectations of Wolcott," —so wrote his friend and eulogist, himself one of the most distinguished of Wolcott's successors in the leadership of his party: "The Constitution as presented, he discovered as defective, as unjust, as founded on no basis of republican equality, as avoiding in important particulars accountability and responsibility, as a mere embodiment of the charter of 1662, which, though liberal in its day, was not adapted to present circumstances and the changed condition of the country and times in 1818."[6]

Ratification by the people was for some time doubtful. As is always the case where a compromise is effected by mutual concessions, the proposed constitution encountered warm opposition without receiving from its friends of either party very zealous support. A federal editor, reviewing the work of the convention, expressed what appears to have been the general sentiment:

"We can say with truth, that many of the members with whom we have conversed, dislike it, and *though they voted for it, as a choice of evils*, did not consider themselves pledged to support it in town meeting."[7]

So many of the democrats were dissatisfied with it, that but for the help of a considerable portion of the federal party, it must have failed of ratification. The federal delegates who had voted for it in convention, nearly all supported it, in good faith, when submitted to the people, and their example and influence brought it many federal votes.[8]

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[6] Hon. John M. Niles, as quoted in Stiles's History of Windsor, p. 835.

[7] Conn. Courant, Sept. 22.

[8] The late Seth P. Beers, who was one of the last survivors of the toleration leaders of 1818, expressed to me (1862) his decided belief that Gen. Nathaniel Terry, by personal and political influence, did more than any other individual to secure a majority for ratification—and that had he opposed the constitution, it could not have escaped defeat.

On the first Monday (fifth) of October, the constitution was ratified by the freemen by a majority of 1,554, in a vote of 26,282.[9] By counties the vote stood as follows :

	Yeas.	*Nays.*
Hartford, ...	2,234	2,843
New Haven, . .	2,385	1,572
New London, . . .	1,740	792
Fairfield, . . .	1,836	1,019
Windham, . . .	1,777	1,671
Litchfield, . . .	2,027	2,779
Middlesex, . . .	1,051	786
Tolland, . . .	868	902
	13,918	12,364

The four southern counties, New Haven, New London, Fairfield, and Middlesex, with a vote of 11,181, gave a majority for ratification of 2,843 ; the northern tier, Hartford, Windham, Litchfield, and Tolland, with a vote of 15,101, gave a majority of 1,289 *against* ratification.

When the votes had been counted, at the October session, the Assembly requested the governor to issue his proclamation declaring that the constitution had been duly ratified, and the Secretary was directed to cause the constitution to be engrossed on parchment and enrolled, with the State seal affixed, and deposited in his office. Governor Wolcott's proclamation was issued on the twelfth of October, and thereafter, "the Constitution of civil government for the People of the State of Connecticut, framed by a Convention and published on the fifteenth day of September last," was "to be observed by all persons whom it doth or may concern, *as the Supreme Law of this State.*"

As Abraham Bishop predicted in 1804, the "Constitution gave a death blow to Connecticut federalism"—that is, to that type of federalism which identified itself with the established order in the church, and believed, with the elder Winthrop, in "the unwarrantableness and unsafeness of referring matter of counsel or jurisdiction to the body of the people." But the

[9] Exclusive of the town of Burlington, which made no returns. The vote by towns is printed with the Journal of the Convention (pp. 117, 118), from the official returns.

disintegration of the old federal party had been going on for years, and much of its strength had been transferred—not directly to republicanism, but—to the cause of "toleration and reform," before the constitution was framed. The standard bearers of that cause, in its first substantial victories, were taken from the federal ranks. The influence of the federal element in the convention made itself felt in every article of the constitution. The result, as we have seen, was not entirely satisfactory to radical republicans,—some of whom complained that this instrument was "a mere embodiment of the charter of 1662." Federalists of the old school did not so regard it. The editor of the *Connecticut Mirror* (William L. Stone), in a review of the political situation in October, 1818, mourned for the departed glory of the State:

"Our venerable customs, usages, and laws, have been assailed with more than vandal rudeness; our form of government, under which for near two hundred years we have enjoyed privileges and blessings unknown to any other people upon earth, has been swept away, as it were by the first surge of the tempest, and we are left upon the ocean of experiment, under the direction of officers possessing, with perhaps one or two exceptions, neither skill nor capacity."

The *Hartford Times*—which, under the editorship of John M. Niles, had been one of the most efficient promoters of the political revolution [10]—summing up, at the close of the year, the immediate results of the victory won by the party of constitution and reform, expressed the satisfaction which, with the before-mentioned exceptions, the republicans felt in their success:

"This charter is not only valuable for the rights which it secures, but also from the difficulties which have attended the subject, the perseverance which it discloses, and the evidence which it affords of the sure, but slow progress of light and intelligence, of liberal sentiments, and of the ultimate establishment of the empire of reason and philosophy on earth. It is the product of more than fourteen years, and during most of this period it has been like a ray of light enveloped in clouds and darkness—

[10] "Mr. Niles embarked in these reformatory measures with zeal, energy, and ability; and more than any other man, perhaps, contributed to the revolution of parties which followed. To forward his views, and give them efficiency, he with the co-operation of others established the *Hartford Times*, in January, 1817, a paper that acquired an immediate local position and influence."—Hon. Gideon Welles, communicated to Stiles's *History of Windsor*, p. 727.

the impervious gloom of prejudice, in part the relic of former times, and partly the offspring of the juggling and delusion of political and clerical craftsmen."

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"The rights of conscience are secured and established, the adulterous union of church and state dissolved, legal religion abolished, and the religion of the heart encouraged, a powerful motive to hypocrisy removed, grace left free to all 'without money and without price,' and the primitive rights of Christianity restored. A government of MEN has been superseded by a government of *laws* founded upon a Constitution; a system of customs or *steady habits*, established without the consent of the people and maintained against their will, has been discarded; distinct and independent bodies of magistracy have been constituted, their powers and duties defined, limited, and separated, and their proceedings required to be public.

"The rights of suffrage have been recognized and established upon just and liberal principles, excluding all qualifications but those of a *personal nature;* the election laws new modified, rendering the mode of voting convenient and expeditious, provisions made for a correct return and counting of the votes, the infamous 'stand-up law' repealed, the system of nomination, that wonderful invention of political empirics, whereby the same public officers were chosen twice over, abolished, and semi-annual elections, which were a great and unnecessary burden to the freemen, have been discontinued, and an annual election established.

"The sessions of the General Assembly have been reduced to one in a year, thereby saving about $14,000 annually; the superior and county courts reorganized, and the number of judges reduced nearly one-half, which will proportionally reduce the expense. The salary of the Commissioners of the School Fund has been reduced $500; arrangements made to place those funds which were in a very neglected and ruinous condition, in a safe situation; the duties of the treasurer and commissioner of the school fund separated and regulated; and a system of taxation, founded upon just and liberal principles, nearly perfected, and will undoubtedly be adopted at the next session. These are some of the changes which characterize the last year."